

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

2 -----x  
3 UNITED STATES OF AMERICA

3 15 CR 116 (NGG)

4 versus

4 TAIROD NATHAN WEBSTER PUGH,

5 U.S. Courthouse  
6 225 Cadman Plaza East  
7 Brooklyn, NY 11201  
8 February 29th, 2016

9 Defendant.

9 -----x 9:00 a. m.

7 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
8 BEFORE THE HONORABLE NICHOLAS GARAUFIS  
9 UNITED STATES DISTRICT JUDGE

10 APPEARANCES

11 For the Government: ROBERT CAPERS  
12 UNITED STATES ATTORNEY  
13 EASTERN DISTRICT OF NEW YORK  
14 271 Cadman Plaza East  
15 Brooklyn, New York 11201  
16 BY: SAMUEL NITZE, ESQ.  
17 TIANA DEMAS, ESQ.  
18 MARK BINI, ESQ.  
19 Assistant United States Attorneys

20 For the Defendant: ERIC CREIZMAN, ESQ.  
21 565 Fifth Avenue, 7th Floor  
22 New York, New York 10017

23 TAYLOR & COHEN, LLP  
24 40 Worth Street, 10th Floor  
25 New York, New York 10013  
BY: ZACHARY TAYLOR, ESQ.

Also present: SPECIAL AGENT GHAILEN STEPHO, FBI

Court Reporter: LISA SCHMID, CCR, RMR  
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Proceedings recorded by mechanical stenography. Transcript  
produced by computer-aided transcription.

## JURY SELECTION

1 (In open court, outside the presence of the jury.)

2 THE CLERK: All rise.

3 THE COURT: Please be seated, everybody.

4 (Defendant enters.)

5 THE CLERK: Case on trial. Counsel, just state your  
6 appearance, please.

7 THE COURT: Appearances, please.

8 MR. NITZE: Sam Nitze, Tiana Demas and Mark Bini  
9 for the United States. Good morning, Your Honor.

10 We're joined at counsel's table by Ja'Shayla Smith,  
11 a paralegal with our office, and Ghailan Stepho, Special Agent  
12 with the FBI good morning.

13 THE COURT: Good morning.

14 MR. CREIZMAN: Good morning, Your Honor. Eric  
15 Creizman and Zachary Taylor for Tairod Pugh, who is standing  
16 next to us.

17 THE COURT: Very well.

18 I'm advised that the 40 jurors that we will select  
19 from are here, so we can go ahead and have them come up to the  
20 courtroom.

21 They will be placed in numerical order of their  
22 number in the box. They'll be 18 in the box, and the rest  
23 will be in the first two rows of the spectator section and  
24 they will have their name -- their numbers, so you can see who  
25 they are.

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1                   And then, I would advise them that we will be  
2 selecting from this group of potential jurors. If someone  
3 raises his or her hand about, you know, something that's  
4 happened since the voir dire, we'll take that at sidebar.

5                   Anything else before we proceed?

6                   MR. NITZE: Just briefly, Your Honor, the parties  
7 have worked quite well actually in resolving evidentiary  
8 issues. There is one outstanding issue that relates chiefly  
9 to potential defense exhibits, out-of-court statements by the  
10 defendant and their admissibility. And the parties wondered  
11 whether Your Honor's preference would be for us to file  
12 something today or this evening, so you can resolve it in the  
13 morning or talk about it this afternoon after the trial day is  
14 complete.

15                  THE COURT: I have a hearing at five o'clock in my  
16 firefighters case, so I can't do that. So why don't you  
17 proceed by way of written submissions and then tomorrow  
18 morning at nine o'clock before the jury returns, we can talk  
19 about it.

20                  MR. NITZE: Very well.

21                  THE COURT: All right?

22                  MR. CREIZMAN: Okay.

23                  THE COURT: All right. So at this point, let's get  
24 the jurors, bring them in, and then we'll proceed from there.  
25 You may be seated.

## JURY SELECTION

1           Let me just ask the parties who's opening for the  
2 government?

3           MR. BINI: I am, Your Honor.

4           THE COURT: Who's opening for the defense?

5           MR. CREIZMAN: I am.

6           (Pause in proceedings.)

7           THE COURT: After the jury is selected, I will have  
8 the jury retire to the jury deliberation room, just to get  
9 certain administrative details squared away as when we'll take  
10 the morning break. That's when we'll take the morning break.

11           (Discussion off the record.)

12           THE CLERK: All ready?

13           THE COURT: Yes.

14           (Prospective jurors enter.)

15           THE CLERK: Juror 6, Juror 8, ten, 13, 15, 17, 19,  
16 21.

17           THE COURT: All right. The first row may be seated.

18           THE CLERK: Twenty-two, 26, 29, 30, 31, 33, 40, 42.

19           THE COURT: All right. Wait. She's going to the  
20 other end. Thank you.

21           THE CLERK: Forty, 42, 44 and 45.

22           All right. Can I have 55, please, 56, 57, 58, 61,  
23 68, 69, 70, 73, 34, 35, 78, 80, 81, 82, 84, 85, 87, 88, 90,  
24 94 and 96.

25           THE COURT: All set?

## JURY SELECTION

1                   THE CLERK: All set.

2                   THE COURT: All right. Be seated, please.

3                   Good morning, ladies and gentlemen.

4                   JURORS: Good morning.

5                   THE COURT: At this time, we are going to complete  
6 the jury selection process. The next step and the last step  
7 is for the parties to identify the jurors that will be the 12  
8 jurors and the six alternate jurors. And from this group of  
9 40 who are now seated, 40 individuals, we will make the final  
10 selections.

11                  As I said previously, the trial is not expected to  
12 last more than two weeks, and we will begin immediately after  
13 jury selection with the opening statements, and the  
14 government's case.

15                  Let me just also indicate that we deeply appreciate  
16 the fact that you were here on time today, so that we could  
17 get an early start and move the trial along. Our objective is  
18 to complete the trial as efficiently as possible. We very  
19 much understand that your time is valuable and we will make  
20 every effort to make sure that we continue with that in mind  
21 to the end of the trial.

22                  So at this time, I'm going to ask the parties to  
23 come up and -- so we can begin the final jury selection.

24                  (Sidebar.)

25                  THE COURT: Let me just observe that nobody raised

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1 his or her hand when I told them it's a two-week trial. I  
2 just wanted to double check.

3 Now, the first 28, that's up to number 74, am I  
4 right?

5 MS. DEMAS: Yes.

6 THE COURT: Okay. So we're only picking -- we're  
7 only -- we're only striking someone in the group from six to  
8 74, correct?

9 MR. NITZE: Right.

10 MR. BINI: That's right.

11 THE COURT: All right. Let's get started. And you  
12 all have the form that I sent you?

13 MR. NITZE: Yes.

14 THE COURT: Okay. And you have your own forms, too,  
15 whatever you have.

16 MS. DEMAS: (Nods head affirmatively.)

17 THE COURT: In the first round -- we're now in the  
18 first round -- the government gets the first strike and there  
19 was only one strike for the government in any round.

20 MR. NITZE: Juror Number 30.

21 THE COURT: Okay. And the defense -- that's Juror  
22 Number 30. The defense gets two strikes in the first round.  
23 Go ahead.

24 MR. CREIZMAN: I think the government -- does the  
25 government start?

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1 MS. DEMAS: We just did.

2 THE COURT: They went. Juror Number 30.

3 MR. CREIZMAN: They took 30? Okay. We will go with  
4 eight and ten.

5 THE COURT: Okay.

6 MR. CREIZMAN: Us?

7 THE COURT: Just hold on. All right. So we move on  
8 to the second round?

9 MR. CREIZMAN: Yes.

10 THE COURT: Okay. In the second round, the defense  
11 goes first and gets two strikes.

12 MR. CREIZMAN: Seventeen and 19.

13 THE COURT: Seventeen and?

14 MR. CREIZMAN: Nineteen.

15 THE COURT: Seventeen and 19.

16 And the government goes next and gets one strike.

17 MR. NITZE: Thirty-three.

18 THE COURT: Okay. So we're up to round three.

19 Shall we keep going?

20 MR. CREIZMAN: Sure.

21 THE COURT: Okay. The government gets one strike in  
22 the third round and goes first.

23 MR. NITZE: Juror 68.

24 THE COURT: And the defense goes next in the third  
25 round and gets two strikes.

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1 MR. CREIZMAN: Twenty-two and 45.

2 THE COURT: Okay. Shall we keep going?

3 MR. CREIZMAN: Sure.

4 THE COURT: The defense goes first in the fourth  
5 round and gets two strikes.

6 MR. CREIZMAN: Forty-four and 57.

7 THE COURT: All right. Government goes next in the  
8 fourth round and gets one strike.

9 MR. NITZE: Seventy-three.

10 THE COURT: Seventy-three?

11 MS. DEMAS: Seventy-three.

12 THE COURT: Okay. And shall we move on to the fifth  
13 round?

14 MR. CREIZMAN: I'm ready.

15 MS. DEMAS: Yes.

16 THE COURT: The government goes first and gets one  
17 strike.

18 MR. NITZE: Juror 13.

19 THE COURT: Thirteen? And the defense goes second  
20 in the fifth round and gets one strike now.

21 MR. CREIZMAN: Fifty-six.

22 THE COURT: And then -- shall we go to the last  
23 round?

24 MR. CREIZMAN: Sure.

25 THE COURT: The defense goes first one strike.

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1 MR. CREIZMAN: Sixty-nine.

2 THE COURT: And the government goes last.

3 MR. NITZE: Seventy-four.

4 MR. CREIZMAN: Seventy-four.

5 MR. NITZE: Uh-hum (affirmative response).

6 THE COURT: All right. So let me just go over the  
7 strikes.

8 First round, government went first, 30, the defense  
9 then struck eight and ten. The second round, the defendant  
10 went first, struck 17 and 19. The government struck 33. And  
11 the third round, government went first and struck 68 and the  
12 defense struck 22 and 45. In the fourth round, the defense  
13 went first and struck 44 and 57. The government struck 73.  
14 The government went first in the fifth round, struck 13 and  
15 the defense struck 56. In the sixth round, the defense went  
16 first and struck 69 and the government struck 74.

17 MR. CREIZMAN: Yes.

18 THE COURT: That's it?

19 MS. DEMAS: (Nods head affirmatively.)

20 THE COURT: Anything?

21 MR. TAYLOR: (Confers with Mr. Creizman.)

22 THE COURT: So let me tell you who the jurors are.  
23 All right? The jurors are six, 15, 21, 26, 29, 31, 40, 42,  
24 55, 58, 61, 70 and 73.

25 MS. DEMAS: No, 73 was struck.

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1                   THE COURT: Was struck?

2                   MR. NITZE: Yes.

3                   THE COURT: I'm sorry. I missed it.

4                   MS. DEMAS: In round four.

5                   THE COURT: Oh, round four. By the government? So  
6 wait a minute. I may have made a mistake. Hold on. (Pause.)

7                   We're fine. We have 12?

8                   MR. CREIZMAN: Yes.

9                   THE COURT: I have 13.

10                  So what I think we should do now is let me excuse  
11 the people who have been struck, and then we'll do the  
12 alternates. You want to do the alternates now? I can do the  
13 alternates now.

14                  MR. CREIZMAN: I think we should excuse first, just  
15 to get our heads together.

16                  THE COURT: I think it would be helpful to see who's  
17 on the jury in the first rows -- two rows and we'll go from  
18 there. All right?

19                  All right. So what I'm going to is, I'm going to --  
20 why don't you watch carefully that the person who stands up is  
21 the person whose number I've called. All right?

22                  MS. DEMAS: Yes, Judge.

23                  MR. BINI: Yes, Your Honor.

24                  THE COURT: All right. And I'm sending them back  
25 downstairs to wait. I'm just going to say wait in the jury

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1 assembly area just in case we need them back. Okay? All  
2 right. Thank you.

3 (Sidebar ends.)

4 THE COURT: I would like the following jurors to  
5 please stand: Juror Number 8, Juror Number 10, Juror Number  
6 13, Juror Number 17, Juror Number 19. Juror Number 22, Juror  
7 Number 30, Juror Number 33, Juror Number 44, Juror Number 45.

8 All right. Those jurors who are in the box, would  
9 you please at this time take your things and return to the  
10 jury assembly area and wait for further instructions?

11 (Jurors exit.)

12 THE CLERK: Fifty-five.

13 THE COURT: I think we can -- Joe.

14 (Confers with the clerk.)

15 THE COURT: Just have a seat, ma'am, and let me --

16 (Confers with the clerk.)

17 THE COURT: All right. Will the following jurors  
18 please stand: Juror Number 56, Juror Number 57, Juror Number  
19 68, Number 69, Number 73, and Number 74. All right. Would  
20 you take your things and return to the jury assembly area on  
21 the second floor and wait for further instructions? Thank  
22 you.

23 THE CLERK: Fifty-five, 58, 61 and 70.

24 THE COURT: All right. All the 12 people who are  
25 sitting in the box, you will be the 12 jurors in this case,

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1 and we will select the six alternates from those remaining  
2 jurors who are in the courtroom, and we'll take a sidebar.

3 (Sidebar.)

4 THE COURT: Okay. Here we go. All right. We're  
5 now going to select the six alternate jurors. Each side will  
6 get three strikes. We'll start with the government's three.

7 MR. NITZE: Government strikes jurors 82, 90 and 96.

8 THE COURT: Okay. And the defense gets three  
9 strikes.

10 MR. CREIZMAN: Could we have a moment?

11 THE COURT: Sure.

12 MR. CREIZMAN: Thanks.

13 (Pause.)

14 MR. CREIZMAN: Okay.

15 THE COURT: All set?

16 MR. CREIZMAN: I think so. Seventy-five.

17 THE COURT: Seventy-five.

18 MR. CREIZMAN: Eighty-one.

19 THE COURT: Eighty-one.

20 MR. CREIZMAN: Eighty-four.

21 THE COURT: Seventy-five, 81, and 84.

22 All right. So the government struck 82, 90 and 96.

23 The defense struck 75, 81 and 84. That leaves us with the  
24 following alternates: 78, 80, 85, 87, 88, and 94. Everyone  
25 agree?

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1 MS. DEMAS: Yes.

2 MR. NITZE: Yes.

3 THE COURT: That's six.

4 MR. CREIZMAN: Yes.

5 THE COURT: All right. Are there any objections to  
6 seating the jurors who have been selected or the alternate  
7 jurors?

8 MR. NITZE: No objection.

9 MR. CREIZMAN: Yeah. Can we have just a moment just  
10 to -- no, actually, I'm good. Good. I'm good. Don't worry.  
11 We're good. We're good.

12 THE COURT: You're good?

13 MR. CREIZMAN: Yeah. We're good. We are good.

14 THE COURT: So you don't have an objection to  
15 seating the jurors and the alternates?

16 MR. CREIZMAN: No, I don't. No objection.

17 THE COURT: Just want it on the record.

18 MR. CREIZMAN: Okay.

19 THE COURT: So we can go forward. Okay.

20 MR. CREIZMAN: Thank you, Your Honor.

21 THE COURT: What we will do is we'll take a 20  
22 minute break after I've sworn in the jury. So that they can  
23 spend sometime in the jury room with Mr. Reccoppa and go over  
24 some of the administrative details, and then we'll start trial  
25 right after that.

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1                   MR. NITZE: With the preliminary charge after they  
2 come back out?

3                   THE COURT: After they come back out. Yes. No, I'm  
4 not going to do that until after they come back out and then  
5 we'll have the openings.

6                   How long is your opening?

7                   MR. BINI: About ten minutes, Your Honor.

8                   THE COURT: And yours?

9                   MR. CREIZMAN: Fifteen minutes, 20 minutes.

10                  THE COURT: If you told me two hours, I would start  
11 sweating.

12                  MR. CREIZMAN: No, no, no, no.

13                  THE COURT: Okay. Fine. All right. Thank you.

14                  MR. BINI: Thank you.

15                  (Sidebar ends.)

16                  THE COURT: All right. Will the following jurors  
17 please stand: Juror Number 75, Juror Number 81. Okay. Juror  
18 Number 82, Juror Number 84, Juror 90, and Juror Number 96.  
19 All right. Please take your things and return to the jury  
20 assembly area and wait for further instructions. Thank you  
21 very much.

22                  (Jurors exit.)

23                  THE CLERK: Seventy-eight, 80, 85, 87, 88, 94.

24                  THE COURT: All right, ladies and gentlemen. You  
25 will constitute the jury and the alternates for this trial.

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1 At this time, the deputy clerk will swear you in. Please  
2 rise.

3 (Jurors sworn.)

4 THE CLERK: Thank you.

5 THE COURT: Please be seated.

6 We're going to follow the following procedure in a  
7 moment. You're going to retire to the jury deliberation room  
8 for some administrative matters. In about 15 minutes, you'll  
9 return to the courtroom and we will begin the trial. I will  
10 give a preliminary instruction on the law, and then the  
11 parties will give their opening statements. When the  
12 instructions are over and my instructions are over and the  
13 statements have been completed, the government will begin to  
14 present its evidence in the case.

15 And let me just say this, you will be permitted to  
16 take notes if you wish. Mr. Reccoppa will give you pads and  
17 pens to take notes; however, the one very important rule is --  
18 with regard to note taking is, you don't share your notes with  
19 other people. In other words, if you take notes, it's just  
20 for you and not for other jurors. You're not obligated to  
21 take notes, but if you feel more comfortable taking notes, you  
22 certainly may.

23 I'm going to remind you -- I'm going to be very  
24 specific -- please don't discuss this case in the jury room  
25 with each other or coming from or going to the courthouse with

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1 each other or with anybody else, as I've said several times,  
2 as you know. But I'll keep saying it. You'll get tired of  
3 it. I apologize, but I do it every day.

4 And so at this time, we're going to take a brief  
5 fifteen-minute recess and then begin the trial.

6 All rise for the jury.

7 First row first, please.

8 (Jurors exit.)

9 THE COURT: Joe, take a 15 minute recess.

10 Just take 15 minutes. Thank you.

11 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Please be seated.

3 (Defendant present.)

4 THE COURT: All right. Everybody ready?

5 MR. BINI: Yes, your Honor.

6 MR. NITZE: Yes.

7 THE COURT: Let's bring in the jury.

8 (Pause.)

9 (Jury enters.)

10 THE COURT: Please be seated, everyone.

11 Good morning again, members of the jury. Members of  
12 the jury, we are about to begin the trial of the United States  
13 criminal case against Tairod Nathan Webster Pugh. As the  
14 trial begins, I would like to help you understand these  
15 proceedings by telling you a few things about the process and  
16 about what is expected of you during the trial.

17 I'm United States District Judge Nicholas G.  
18 Garaufis, and I will be presiding over this case. As times I  
19 may refer to myself during the trial as the court. Today I'm  
20 wearing my judicial robe, but I may not wear it every day.  
21 You should not draw any conclusion from the fact that I may  
22 not on certain days be wearing my judicial robe.

23 As I advised you during jury selection, this trial  
24 is expected to last for approximately two weeks. The trial  
25 will -- session will usually begin at 9:30 in the morning, and

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1 it will end no later than 5:30 in the afternoon. We will be  
2 in session four days this week, Monday through Thursday. If  
3 necessary, jury deliberations may take place on a Friday. My  
4 courtroom deputy, Joseph Reccoppa, will distribute the  
5 schedule for the trial so you can plan your time.

6 There will be a one-hour-and-15-minute break for  
7 lunch every day at approximately 1:00 p.m and a short break  
8 each morning at around 11:15 and each afternoon at about  
9 3:30 p.m. If at any point you require an additional break, we  
10 will try our best to accommodate your needs. If you need a  
11 break, just raise your hand. Even if I'm not watching, the  
12 parties will be, and they will inform me, or my clerks will  
13 inform me.

14 This is an anonymous jury, and you will be driven to  
15 and from the courthouse each day by the United States Marshal  
16 Service, and you will be accompanied by the United States  
17 Marshal Service if you should go anywhere during your midday  
18 breaks. Lunch will be provided by the court, so you will not  
19 need to leave the courthouse for lunch.

20 At this time I would like to reintroduce the parties  
21 to you. The United States Government is represented in this  
22 case by Assistant United States Attorney Samuel Nitze,  
23 Assistant U.S. Attorney Tiana Demas, and Assistant U.S.  
24 Attorney Mark Bini. Joining them at counsel table is Special  
25 Agent Ghilan Stepho and paralegal Ja'Shayla Smith. The

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1 defendant in this case is Tairod Pugh. He is represented by  
2 attorneys Eric Creizman and Zachary Taylor.

3 During the course of these proceedings you will hear  
4 me use a few terms, which you may not have heard before. Now,  
5 let me briefly explain some of the most common terms to you.

6 This is a criminal case commenced by the United  
7 States, which I may sometimes refer to as the prosecution or  
8 the government. This case is against Tairod Pugh, whom I  
9 refer to -- I may refer to as the defendant. The prosecution  
10 and the defendant together are sometimes called the parties to  
11 the case. I will sometimes refer to myself as the court. You  
12 will sometimes hear me refer to counsel. Counsel is another  
13 way of saying lawyer or attorney.

14 You may sometimes hear the attorneys make objections  
15 during the trial to certain evidence that the other side is  
16 presenting. When I sustain an objection, this means that I am  
17 excluding from the trial the evidence to which the party  
18 objected. You may not consider excluded evidence. When you  
19 hear me overrule an objection, this means that I am permitting  
20 the evidence to be admitted. That means for you to hear and  
21 see it. When I say admitted into evidence or received into  
22 evidence, I mean that this particular statement or this  
23 particular exhibit or piece of evidence is now part of the  
24 trial, and you may consider it when making the decisions you  
25 must make at the conclusion of this case.

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1                   The term burden of proof, or sustaining the burden  
2 of proof, means the obligations of proving the case. In this  
3 trial it is the government's obligation to prove beyond a  
4 reasonable doubt the charges in the indictment.

5                   I will now discuss the indictment. The government  
6 began this case by obtaining an indictment. An indictment is  
7 a formal written accusation of a crime or crimes, which  
8 formally commences a prosecution. It is not evidence. The  
9 indictment in this case charges the defendant with crimes that  
10 allegedly took place between May 2014 and January 2015.

11                  There are two counts in this indictment. I will now  
12 discuss the charges. Count one, attempt to provide material  
13 support to a foreign terrorist organization. The government  
14 alleges around and between May 2014 to January 2015, within  
15 the extraterritorial jurisdiction of the United States, the  
16 defendant knowingly and intentionally attempted to provide  
17 material support and resources, including personnel and  
18 including the defendant himself, to a foreign terrorist  
19 organization, namely, the Islamic State of Iraq and the  
20 Levant. Count two, obstruction and attempted obstruction of  
21 an official proceeding. The government alleges that around  
22 and between January 10, 2015 and January 16, 2015 the  
23 defendant knowingly, intentionally, and corruptly altered,  
24 destroyed, mutilated, or concealed four USB thumb drives and  
25 the files and images contained thereon and attempted to do so

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1 with the intent to impair such items' integrity and  
2 availability for use in a proceeding before a federal grand  
3 jury in this district related to the commission and possible  
4 commission of terrorism offenses, including the offense  
5 charged in count one, and that the defendant knowingly,  
6 intentionally, and corruptly obstructed, influenced, or  
7 impeded the grand jury investigation.

8                   This concludes the summary of the charged crimes.  
9 Again, I remind you that the indictment is simply a charge by  
10 the government to begin a case and that it is not in any sense  
11 evidence of the allegations or statements it contains. The  
12 defendant has pleaded not guilty to all of the counts charged  
13 against him.

14                   The government has the burden of proving each of the  
15 elements of the crimes charged in the indictment beyond a  
16 reasonable doubt. As jurors, you must determine whether or  
17 not at the close of the trial the government has met this  
18 burden. You must presume that the defendant is not guilty of  
19 the crimes charged in the indictment. You must maintain this  
20 presumption for the defendant unless you determine at the time  
21 of your deliberations, after reviewing the evidence and  
22 discussing the case with your fellow jurors in the jury  
23 deliberation room, that the prosecution has succeeded in  
24 proving the defendant's guilt beyond a reasonable doubt.

25                   At the conclusion of the trial, after you have heard

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1 all the evidence and after I have had the opportunity to  
2 confer with the lawyers, I will give you the final and  
3 controlling statement concerning the law to be applied in this  
4 case, including what the elements of the crimes are. My  
5 remarks at this time are preliminary. I am giving you this  
6 preliminary summary now to help you as you hear the evidence  
7 and see the exhibits. My instructions at the end of the trial  
8 will provide much more guidance concerning the nature and  
9 scope of your deliberations.

10 I will now discuss the order of the trial. The  
11 trial will proceed in the following order. First, the parties  
12 will have the opportunity to make opening statements. The  
13 government may make an opening statement at the beginning of  
14 the case. The defense may make an opening statement following  
15 the government's opening statement, or may -- he may postpone  
16 his opening statement until the close of the government's  
17 case. The defendant is not obligated to make an opening  
18 statement. Moreover, whatever is said in the opening  
19 statements is not evidence. The opening statements simply  
20 serve as an introduction to the evidence that the party making  
21 the opening statement intends to produce during the trial.

22 Second, after any opening statements, the government  
23 will introduce the evidence that it feels supports the charges  
24 contained in the indictment.

25 Third, after the government has presented its

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1 evidence, the defendant may present evidence, but he is not  
2 obligated to do so. The burden or obligation, as you will be  
3 told many times during the course of this trial, is always on  
4 the government to prove each and every element of the offenses  
5 charged beyond a reasonable doubt. The law never imposes on a  
6 defendant in a criminal case the burden of calling any  
7 witnesses, producing any exhibits, or introducing any  
8 evidence. The defendant is presumed innocent of all the  
9 charges.

10                  Fourth, after all of the evidence has been received  
11 in -- other words, after all of the witnesses have testified,  
12 and after all of the exhibits have been admitted -- each party  
13 will be given the opportunity to present its argument to you  
14 in support of its case. This is called a closing argument.  
15 Whatever is said in closing arguments is not evidence, just as  
16 whatever is said in opening statements is not evidence. The  
17 closing arguments are designed to present to you the theories  
18 and conclusions of the parties as to what the evidence has  
19 shown and what inferences may be drawn from the evidence.

20                  Fifth, after you have heard the closing arguments of  
21 the parties, I will give you, orally and in writing, the final  
22 instructions concerning the law, which you must apply to the  
23 evidence received during the trial. Those instructions will  
24 be much more detailed than what I am giving you now.

25                  You will then retire to consider your verdict. Your

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1 deliberations are secret. You will not be required to explain  
2 your verdict to anyone. Your verdict must be unanimous. In  
3 other words, all 12 of you must agree to it.

4 You must keep in mind -- you must keep an open mind  
5 to both sides during this trial. As you know, there are  
6 generally at least two sides to most stories, and you must not  
7 make up your mind about any of the questions in this case  
8 until you have heard each piece of evidence and all of the law  
9 that you must apply to that evidence. In other words, you  
10 must not make up your mind until you begin your deliberations.

11 Your purpose as jurors is to find and determine the  
12 facts. Under our system of justice, you are the sole judges  
13 of the facts. If at any time I should make any comment  
14 regarding the facts, or you think I am making some comment on  
15 a piece of evidence, you are at liberty to disregard it  
16 entirely.

17 It is especially important that you perform your  
18 duty of determining the facts diligently and conscientiously  
19 because ordinarily there is no means of correcting an  
20 erroneous determination of the facts by a jury. On the other  
21 hand, and with equal emphasis, I instruct you that the law as  
22 given by the court in these and other instructions constitutes  
23 the only law for your guidance. It is your duty to accept it  
24 and follow the law as I give it to you, even though you may  
25 disagree with the law.

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1                   You are to determine the facts solely from the  
2 evidence admitted in the case. This evidence consists of the  
3 testimony of witnesses and exhibits received. Questions asked  
4 by the lawyers are not evidence. The evidence consists of the  
5 witnesses' answers to the questions, not the questions  
6 themselves. As I said earlier, statements and arguments of  
7 counsel are not evidence.

8                   Counsel may, however, enter into agreements or  
9 stipulations regarding certain facts which are not in dispute,  
10 and when they do so you may accept the facts as stipulated by  
11 counsel. I may also tell you that I am taking judicial notice  
12 of certain facts, and you may then accept those facts as true.  
13 It is always up to you, however, the jury, to decide what  
14 facts are established by the evidence and what inferences are  
15 to be drawn from the evidence.

16                   As I mentioned earlier, the parties may sometimes  
17 raise objections to some of the testimony or exhibits. It is  
18 the duty of a lawyer to object to evidence which he or she  
19 believes may not properly be received or admitted. And you  
20 should not be prejudiced in any way against a lawyer who makes  
21 objections or against a party he or she represents. An  
22 objection is the only proper method of requesting a ruling  
23 from the court concerning evidence.

24                   At times I may sustain objections or direct that you  
25 disregard certain testimony or exhibits. You must not

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1 consider any evidence to which an objection has been sustained  
2 or any evidence that I have instructed you to disregard.

3 Let me pause for a moment here to stress that it is  
4 extremely important that you follow my instruction that you  
5 not discuss this case with anyone, not your family, your  
6 friends, your business associates, and not the other jurors on  
7 this case. In addition, you must not read, listen to, watch,  
8 or access any accounts of this case on the Internet nor  
9 research or seek outside information about any aspect of this  
10 case.

11 Please do not communicate with anyone about the case  
12 over e-mail or through your phone, including Blackberry or  
13 iPhone text messaging. Do not communicate with anyone about  
14 the case using any blog or website or by way of any social  
15 networking website, including Facebook, Twitter, LinkedIn, You  
16 Tube, or other similar sites.

17 You may not consider anything you may have read or  
18 heard about the case outside of this courtroom, whether before  
19 or during the trial or during your deliberations. If you see,  
20 hear, or read any news about this case, change the channel on  
21 your TV, switch the radio station in your car, flip to the  
22 next page of the newspaper, or click to the next online  
23 article.

24 Do not attempt any independent research or  
25 investigation about the case. Do not visit any of the

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1 locations identified during the course of testimony. As I  
2 said before, your decision in this case must be based solely  
3 and exclusively upon the evidence received during the trial  
4 and not upon anything else.

5 Now, you may have already heard the terms direct  
6 evidence and circumstantial evidence. Direct evidence is  
7 generally the testimony of a person who claims to have actual  
8 and direct knowledge of a fact. For example, an eyewitness  
9 who claims to have seen an event. So, if you went outside and  
10 saw that it was raining, this would be direct evidence of  
11 rain.

12 Circumstantial evidence, on the other hand, is  
13 generally testimony of a chain of facts, which may lead to a  
14 conclusion of some kind. For example, if you were to come to  
15 court on a bright, sunny day and then after a few hours here  
16 in this courtroom with the shades drawn, you saw people  
17 entering through the back door, one wearing a wet raincoat and  
18 the other shaking a wet umbrella, you might infer from these  
19 circumstances, without yourselves ever going outside or even  
20 looking out a window, that it had rained while you were here  
21 in court. This is circumstantial evidence of rain.

22 In any event, the law makes no distinction between  
23 direct evidence and circumstantial evidence. In considering  
24 the evidence in this trial, you should give it such weight and  
25 importance as you think it deserves, whether it is called

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1 direct or circumstantial evidence, and make the deductions and  
2 reach the conclusions to which your experience and common  
3 sense lead.

4                   In attempting to determine the facts in this case,  
5 you may be called upon to judge the credibility of the  
6 witnesses who testify at trial from this witness box over  
7 here. In deciding whether or not to believe what a witness  
8 has said, I suggest that you consider the intelligence of the  
9 witness, the ability of the witness to have seen or heard what  
10 the witness said was seen or heard, the ability of the witness  
11 to remember what happened, any interest that the witness might  
12 have in how this case is decided, and whether the testimony is  
13 reasonable. You are free to believe all of what a witness or  
14 exhibit says, some of it, or none of it. I will address this  
15 subject again after you have heard all of the evidence in the  
16 trial.

17                   No statement, ruling, remark, or comment which I may  
18 make during the course of this trial is intended to indicate  
19 what my opinion as to how you should decide the case is or is  
20 intended to influence you in any way in your determination of  
21 the facts. I may sometimes ask questions of witnesses. If I  
22 do so, it is for the purpose of bringing out matters that I  
23 feel should be brought out, and it is not intended in any way  
24 to indicate my opinion about the facts or to indicate the  
25 weight I feel you should give to the testimony of the witness

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1 so questioned.

2 I may also find it necessary to admonish the  
3 lawyers, and, if I do, you should not show prejudice toward a  
4 lawyer or that lawyer's client because I have found it  
5 necessary to correct him or her.

6 At times during this trial, it will be important for  
7 me to confer privately with the lawyers and others about  
8 various evidentiary procedural issues. During these  
9 conferences, both here at the bench and in my chambers, it is  
10 not our intention to hide anything from you but simply to  
11 determine how certain issues will be handled. Please be  
12 patient with us during such delays. We are only taking care  
13 to ensure that the trial is conducted fairly.

14 Of course, you have all at some point heard the  
15 white noise, which I use when we have a sidebar for these  
16 consultations. I will just play it one more time because I  
17 enjoy it. This is the only toy I have on the bench.

18 (White noise.)

19 THE COURT: Okay. At times you will be required to  
20 wait in the jury room while I am required to hear and decide  
21 other matters from other cases not connected with this one.  
22 These delays are unavoidable, but I do everything I can do  
23 to keep these interruptions to a minimum. However, I cannot  
24 avoid them entirely. So please be patient.

25 You are not to concern yourselves in any way with

LISA SCHMID, CCR, RMR

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1 the sentence the defendant might receive, if you should find  
2 him guilty. Your function is solely to decide whether the  
3 government has sustained or carried its burden of proving the  
4 charges to you beyond a reasonable doubt. If and only if you  
5 find the defendant guilty of the charges, will it become the  
6 duty of the court to impose a sentence.

7                   The attorneys and the parties will not speak to you  
8 because I have already instructed them that they should not  
9 and must not. Should you see one of the lawyers in the  
10 hallway, for example, and he or she does not speak with you,  
11 that lawyer is not being rude, cold, or unfriendly, but is  
12 simply doing what I have ordered all of the lawyers to do in  
13 this case. It does not look appropriate for one side or the  
14 other to be speaking with any of you, no matter how innocent  
15 or trivial that conversation might be.

16                   Again, until this case is submitted to you to begin  
17 your deliberations, you must not discuss it with anyone at  
18 all, not even your fellow jurors. After it is submitted, you  
19 must discuss the case only in the jury room with your fellow  
20 jurors when all of you are present. If one of the jurors goes  
21 to the lavatory, you have to stop deliberating until all 12 of  
22 you are again together around the table.

23                   It is important that you keep an open mind and not  
24 decide any issue in the case until the entire case has been  
25 submitted to you and you have received the final instructions

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1 from the court regarding the law that you must apply to the  
2 evidence.

3                   So, please keep a few key principles in mind as we  
4 begin the trial. Your job, your job, is to decide all of the  
5 factual questions in the case, such as who should be believed  
6 and who should not be believed. I will decide all of the  
7 legal questions in the case, such as what testimony or  
8 exhibits are received into evidence and which are not. Please  
9 do not concern yourselves with the legal questions.

10                  The defendant has pleaded not guilty and is presumed  
11 to be innocent of the crimes charged against him. As such,  
12 the defendant is not required to produce any evidence  
13 whatsoever. Rather, by bringing the indictment, the  
14 government has accepted the responsibility of proving the  
15 guilt of the defendant to each of you, unanimously, beyond a  
16 reasonable doubt.

17                  Finally, do not discuss the case with anyone and  
18 keep an open mind regarding each issue in the case until all  
19 of the evidence has been received. At that time I will give  
20 you the complete and final instructions that you must use to  
21 guide you in reaching your decisions. Then and only then will  
22 you be fully prepared to begin your deliberations and reach  
23 your verdicts.

24                  Do not permit any other person to discuss the case  
25 in your presence and, if anyone does so, despite your telling

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1 him or her not to do so, please report that fact to the court  
2 as soon as possible by advising the marshal or Mr. Reccoppa.  
3 You should not, however, discuss with your fellow jurors that  
4 fact or any other fact you need -- that you feel necessary to  
5 bring to the attention of court. If something should happen  
6 and you should need to advise me of something, you could write  
7 a note and sign it only with your juror number and give it to  
8 the marshal or give it to Mr. Reccoppa or give it to one of my  
9 law clerks, Evan Ezray and Jack Nelson, who are working on  
10 this case with me.

11 Now, please also remember that because of media  
12 attention that this trial may receive, you are an anonymous  
13 jury. That means that nobody in this room, including myself,  
14 knows your identifying information. We know you by number.  
15 There are sketch artists in the courtroom, and they are  
16 instructed that they may not sketch your faces at all, in any  
17 way. If they try, they will be excluded from the courtroom  
18 and be subject to further penalties.

19 You may tell your fellow jurors your first name  
20 only, if you so choose. It's sort of hard to sit in a room  
21 and talk by number, so you may use your first names; but you  
22 may not tell anyone else any identifying information except  
23 for your juror number. If anyone asks you for identifying  
24 information, please report this to the court.

25 So I want to thank you all in advance for your

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1 willingness to serve and your careful attention throughout the  
2 trial.

3 At this time we are going to have opening  
4 statements. The government will go first. Mr. Bini, you may  
5 open for the government.

6 MR. BINI: Thank you, your Honor.

7 Last year the defendant, Tairod Pugh, tried to join  
8 ISIS, a terrorist group that kills innocent Americans and  
9 anyone else who stands in their way.

10 Now, the defendant is an American citizen. He has  
11 lived in the United States for most of his life. He even  
12 spent four years in the United States Air Force learning to be  
13 an airplane mechanic.

14 But, during the course of this trial, you will learn  
15 that the defendant turned his back on the country that he once  
16 pledged to serve, and then in late 2014 he made a choice. He  
17 decided then that he wanted to fight, he was ready to die in  
18 the cause of terrorism, for ISIS. He decided he was going to  
19 join ISIS and support them with himself, with his body, with  
20 his skills as an airplane mechanic; and that, ladies and  
21 gentlemen, is why we are here today.

22 Ladies and gentlemen, my name is Assistant United  
23 States Attorney Mark Bini, and together with Assistant United  
24 States Attorneys Samuel Nitze, Tiana Demas, Paralegal  
25 Ja'Shayla Smith, and Special Agent Ghailan Stepho of the FBI,

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1 we represent the United States in this matter.

2 ISIS has issued a call to arms to men and women  
3 worldwide to join their terrorist organization. As you will  
4 learn over the next few days, ISIS, which is also known as  
5 ISIL or the Islamic State, is primarily based in Syria; and  
6 it's distinguished itself from other terrorist organizations  
7 by its violence and brutality, using beheadings and  
8 indiscriminate massacres to promote terror. ISIS recruits  
9 fighters from all over the globe who embrace its goal of  
10 creating its own Islamic caliphate, or a state under the  
11 control of an Islamic leader, by force, by war, by acts of  
12 violence against those who oppose them, the people they  
13 consider to be the unbelievers.

14 The Defendant Tairod Pugh wanted to offer himself to  
15 ISIS's cause. You will learn during this trial that in 2014  
16 the defendant was living in the middle east. He had become  
17 increasingly radical in his beliefs. In mid-2014 he began to  
18 educate himself about ISIS and to prepare himself to join that  
19 group. He began to immerse himself in videos and literature  
20 about ISIS. He studied videos, including the ones that showed  
21 ISIS fighters training for battle and other videos showing  
22 ISIS beheading Americans and others.

23 Around this same time, the defendant made statements  
24 to others that revealed his goal. He told coworkers that ISIS  
25 needed airplane mechanics. He posted remarks on Facebook

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1 defending terrorists and defending ISIS. He reached out to  
2 others on Facebook who were interested in ISIS's cause.

3                   Ladies and gentlemen, after educating himself about  
4 ISIS's deadly goals and knowing full well the brutality of the  
5 organization, the defendant took action on his plan to join  
6 this terrorist group. He started to research how to travel  
7 from Turkey to Syria, where ISIS is based.

8                   Next, using his laptop computer, the defendant  
9 drafted a letter to his wife, where he told her that he would  
10 fight and that he was ready to die for ISIS. He wrote, "I am  
11 a sword against the oppressor and a shield for the oppressed.  
12 I will use the talents and skills given to me by Allah to  
13 establish and defend the Islamic State. There is only two  
14 possible outcomes for me, victory or martyr.

15                   Then he took another step in his deadly mission,  
16 ladies and gentlemen. You will learn that in January of 2015,  
17 just days after writing that letter, he purchased a one-way  
18 ticket on a flight from Egypt to Turkey so that he could  
19 travel to Syria and join ISIS. Then he actually flew from  
20 Egypt to Turkey on that one-way trip, but Turkish officials  
21 caught him. They stopped him at the airport in Istanbul.  
22 They sent him back to Egypt.

23                   The defendant was caught red-handed, and he knew it.  
24 You will learn that the defendant tried to destroy the  
25 evidence against him, destroying four flash drives, or

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1 miniature storage devices that carry computer information,  
2 that he had on his person by tearing off their outer casings  
3 and ripping out the inner microchips in the flash drives.

4           When the defendant arrived in Egypt, the Egyptians  
5 detained him and they gave the FBI the defendant's electronic  
6 devices, including his laptop and those four flash drives.  
7 Then they deported the defendant to the United States, sending  
8 him to John F. Kennedy Airport in Queens, just a few miles  
9 from where we are now.

10           You will also learn that when the defendant landed  
11 at JFK Airport, an undercover officer for the FBI approached  
12 him and pretended to be an ISIS supporter. You will hear that  
13 the defendant made clear to the undercover that defendant's  
14 trip to Turkey was part of his plan to travel to join ISIS.  
15 The defendant told the undercover that if he wanted to travel  
16 to Syria through Turkey, he would need to blend in, to make  
17 himself look like a tourist so that he wouldn't get stopped in  
18 Turkey like the defendant had.

19           At almost the same time FBI agents obtained court  
20 authorization to search the defendant's electronic devices.  
21 When they searched those devices, they were able to recover  
22 information from the defendant's laptop; and the day after the  
23 defendant landed back at John F. Kennedy Airport, FBI agents  
24 arrested him.

25           For his conduct, the defendant is charged with two

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1       crimes. First, attempted material support of a foreign  
2       terrorist organization, for attempting to join ISIS. Second,  
3       obstruction of an official proceeding by obstructing a  
4       terrorist investigation by destroying those four flash drives.

5               Here is how the government will prove the  
6       defendant's guilt to you beyond a reasonable doubt. First,  
7       through witness testimony. Second, through documentary and  
8       physical evidence. And, third, through evidence recovered  
9       from the defendant's electronic devices and in his Facebook  
10      posts.

11              First you will hear from the witnesses who spoke to  
12       the defendant, both before and after his thwarted trip to  
13       Syria. You will hear from the defendant's last employer about  
14       pro-ISIS remarks that the defendant made just a few months  
15       before his trip. You will hear from the undercover officer  
16       who spoke to the defendant at John F. Kennedy Airport. You  
17       will also hear from a witness who is an expert on ISIS, about  
18       how ISIS recruits people just like the defendant to join its  
19       ranks and how they welcome fighters from all over the world  
20       with open arms.

21              Second, you will have the chance to see the  
22       defendant's one-way ticket to Turkey and the two backpacks  
23       that he took with him on his trip, which you will learn  
24       contain the things you would need for war-torn Syria.

25              Third, you will have the chance to see the evidence

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1 recovered from the defendant's laptop and cellular phone. You  
2 will get to read the draft letter the defendant wrote on his  
3 laptop, just days before his trip to Turkey, saying that he  
4 wanted to fight and was ready to die for ISIS. You will have  
5 the chance to see that in the months before his trip the  
6 defendant downloaded and watched videos showing the history of  
7 ISIS, with banners on the screen urging fighters to martyr  
8 themselves, meaning to commit suicide attacks on behalf of  
9 ISIS against ISIS's enemies, banners like The Virtues of  
10 Seeking Martyrdom and Pledge to Die.

11 You will learn the defendant downloaded ISIS  
12 beheading videos. In one such video that you will have a  
13 chance to see portions of, an ISIS fighter dressed all in  
14 black, who is known in the media as Jihadi John, points a  
15 knife at the camera and threatens that ISIS will slaughter the  
16 United States' soldiers.

17 You will also learn what was on some of the flash  
18 drives that the defendant destroyed, because even though --

19 (Continued on the next page.)

20  
21  
22  
23  
24  
25

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1                   MR. BINI: -- even though the defendant ripped the  
2 microchips, there were forensic traces on his laptop of the  
3 files that were viewed on some of the destroyed flash drives  
4 including maps of Syria and its border with Turkey and maps of  
5 areas under the control of ISIS.

6                   Finally, you'll have the chance to read some of the  
7 defendant's own words on Facebook where he praised acts of  
8 terrorism and urged others to support ISIS; for example,  
9 you'll have a chance to read a post where the defendant states  
10 ISIS fighters had to fight for new ground while defending  
11 their home ground. And the defendant wrote: Support them  
12 with your bodies.

13                   Ladies and gentlemen, after you've seen and heard  
14 all of the evidence in this case, the Government will ask you  
15 to return the only verdict consistent with that  
16 evidence -- guilty on both counts. Thank you.

17                   THE COURT: Mr. Creizman, you may open for the  
18 defendant.

19                   MR. CREIZMAN: Thank you, your Honor.

20                   In this country, we don't punish a person for his  
21 thoughts; in this country, we don't stifle the exploration of  
22 ideas; and in this country, we don't deprive a person of his  
23 liberty, brand him a criminal, and ruin his life based on the  
24 speculation of what he might do not future. These are bedrock  
25 principles upon which this nation is founded and they apply to

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1 all citizens. Citizens that hold offensive views, citizens  
2 who oppose our government's policies, and citizens even  
3 citizens who support the views of our enemies. These are the  
4 principles which our soldiers fight for and die for every day,  
5 and indeed, these are the principles which my client, Tairod  
6 Pugh, who is honorably discharged from the Air Force,  
7 a -- he's a Senior Airman; he worked in the honor guard, he  
8 helped bury his fellow soldiers; that's what he fought for as  
9 well, and these principles are highly relevant to this case.

10                   Mr. Pugh is innocent of the charge of  
11 materially -- of attempted materially supporting terrorism.  
12 He did not fly to Turkey for the purpose of joining ISIS, the  
13 evidence doesn't support it. And, in fact, the evidence you  
14 will see at trial is inconsistent with such a conclusion in  
15 three significant respects.

16                   First, Mr. Pugh had no contact in the Islamic State.  
17 He didn't communicate with anyone inside of ISIS. He had no  
18 recruiter in Turkey who could help him cross the border, and  
19 he had no operative inside of ISIS who would vouch for him if  
20 he got to the border and let him in.

21                   Number two, Mr. Pugh, had no plan as to how he would  
22 get across the border.

23                   Now, the Government alluded to this in its opening.  
24 You're going to see that he did research on the Internet about  
25 border crossings between Turkey and Syria and you're going to

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1 see he did research and watched videos that support ISIS, that  
2 support martyrdom, but you'll even see, by the way, that he  
3 shared those views about ISIS. He wasn't shy about it, he  
4 shared them with people, with his co-workers, with his  
5 Facebook friends. He didn't hide it.

6                   But what you won't see in the evidence, you won't  
7 see him doing any research whatsoever on how to get from  
8 Istanbul to the Syrian border. There's nothing to suggest  
9 that he even had the slightest idea of how he would make that  
10 trip, and there's no evidence that he would even know what to  
11 do if he got there.

12                  Now, when Mr. Pugh was stopped in the Istanbul  
13 airport, what did they find in his backpack? They found some  
14 notes. And some notes that he scribbled down were hostels in  
15 the city of Istanbul where he might stay, and you will see  
16 that he did research as to what hostels in Istanbul might be  
17 good places to see. You will see that he had a list of  
18 Turkish bath houses that he might visit and he did research on  
19 the Internet on that. He did no research whatsoever about the  
20 route from Istanbul to Turkey. No research whatsoever about  
21 where to stay along the way, and nothing, there is nothing in  
22 the evidence that would suggest that someone who is  
23 knowledgeable about ISIS, a 46-year-old man had reasonably  
24 planned a dangerous trip across dangerous terrain to join a  
25 dangerous organization with no one who knew him and no one who

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1 would vouch for him.

2 You know what the Turkish officials also found, I'm  
3 sorry, what the -- what was also found in Mr. Pugh's backpack?  
4 His resume, a letter of recommendation from a previous  
5 employer, and his U.S. Air Force papers.

6 Now, Mr. Pugh, was very knowledgeable about ISIS, so  
7 one would have to believe that Mr. Pugh was prepared to  
8 somehow get to the border, walk up to an ISIS militant  
9 guarding the Turkish-Syrian border, show him his resume and  
10 his U.S. Air Force papers, and maybe hope that he'd get  
11 welcomed in, maybe get a job. It's not reasonable to believe  
12 that, it's not reasonable to believe that if he did that he  
13 would leave in one piece.

14 Third, the Government's accusations are inconsistent  
15 with Mr. Pugh's life history, with his family circumstances,  
16 and with his character.

17 Now, let me introduce Tairod Pugh. Please stand up  
18 for a moment.

19 Thank you.

20 Mr. Pugh, as I've said, is 46 years old. And  
21 throughout his life, he's always done what society has asked  
22 of him. He stayed out of trouble. He served our country, and  
23 he worked hard. He was always employed. You'll see the  
24 record of his employment at trial and you'll see, very, very  
25 few gaps. This is a man who has constantly strove to get

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1 employment to support himself and his family.

2 You'll also learn, in terms of family circumstances,  
3 he was recently married to an Egyptian woman and he was very  
4 much in love. That would be a lot for him to give up to go  
5 and join ISIS. And another thing about Mr. Pugh's character,  
6 you'll see from his Facebook posts, you'll see from his  
7 messages, and you'll hear from witnesses themselves that  
8 Mr. Pugh was deeply and personally opposed to violence against  
9 civilians.

10 He was outspoken about oppression and about violence  
11 against those who he felt couldn't defend themselves. He saw  
12 videos and photos of children who were casualties of war, war  
13 that our country was involved in, that western allies were  
14 involved in, that Israel was involved in, and it upset him,  
15 and it bothered him.

16 And he believed, he looked at these militants, he  
17 looked at groups like ISIS and others, and he believed that  
18 they were standing up for the oppressed.

19 Now, you may reasonably ask yourselves what  
20 about -- how does he square this idea about being opposed to  
21 violence against civilians when these groups themselves have  
22 been known to be involved in violence against civilians.

23 Well, you'll notice, and you will see in his  
24 Facebook posts and everywhere else, from witnesses, from  
25 messages, that Mr. Pugh was in denial about these

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1 organizations. He refused to believe that ISIS or that  
2 al-Qaeda was involved in terrorist acts. He thought this was  
3 a creation of the media, and he would have debunked -- he  
4 would take time to debunking media reports. It wasn't  
5 al-Qaeda who was responsible for 9/11, it was a plot by the  
6 West to incite hatred against Muslims. It wasn't ISIS who was  
7 cutting off heads, it was the United States that was cutting  
8 off heads, or Israel that was cutting off heads.

9 Now, this kind of engaging in fantasy over here is  
10 easy to do when you're on the Internet, but it's not something  
11 that a person like Mr. Pugh who was so knowledgeable about  
12 these organizations is likely to take a chance on when it  
13 scale down to reality, when it came down to actually going and  
14 making a trip to join an organization like that.

15 I want to take you back for a moment to  
16 December 2014. That's a very important time period in this  
17 trial because Mr. Pugh loses his job at an airline called  
18 Gryphon Airways. At Gryphon he was an airframe avionics  
19 mechanic, he worked on airplanes. This was his second job  
20 that he lost since he moved to the Middle East over a year or  
21 year and a half before. And you'll see that Mr. Pugh, someone  
22 with 25 years of avionics experience -- someone who just got  
23 married -- he felt humiliated, he felt small, he felt  
24 inconsequential. He thought that moving to the Middle East  
25 would change his life; that any problems he had in the

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1 United States with jobs, with family and so forth. All of  
2 that would be solved by moving to the Middle East by living a  
3 simple life by being married, by having a family and by  
4 practicing his faith. And now it just seems that he's in a  
5 new place and the same kinds of things are happening again.

6 So he goes to Turkey, which is a western, secular,  
7 Muslim, predominantly Muslim, state full of airports. He goes  
8 there to look for a job and he goes there to clear his head.  
9 That's what's consistent with everything that you will see,  
10 hear, and learn in the evidence about Mr. Pugh.

11 Now, I want to say a word about the charge of  
12 obstruction of an official proceeding. The Government alleges  
13 that Mr. Pugh destroyed thumb drives, tried to destroy his  
14 laptop, so that they could avoid using them. So that they  
15 would be avoided from being used in a proceeding, right, an  
16 official proceeding. But the evidence that you will see will  
17 not support that charge.

18 When Tairrod was stopped in Turkey, he was told he  
19 was going to be sent back to Egypt. Mr. Pugh had spent some  
20 time in Egypt, he had a wife who was Egyptian. Anyone who  
21 lived some time in Egypt would know that if you're sent back,  
22 that Egyptian authorities at that time, and today, would  
23 take -- no one would take kindly to the videos and the texts  
24 and the pro-Islamic State propaganda that he had on his  
25 electronic devices. But Mr. Pugh never could have imagined

## OPENING STATEMENT/CREIZMAN

1 that this would turn into some kind of terrorism investigation  
2 in the United States. All he had were videos, writings, and  
3 texts and that's allowed under the laws of this country, and  
4 that's what this case is ultimately about. Videos, Google  
5 searches, expressions of support, publications that supported  
6 ISIS, devout religious texts. All of these things suggests  
7 that Mr. Pugh was very interested in ISIS; that he admired  
8 militants, that he was disenchanted with U.S. foreign policy,  
9 and with the foreign policy of its allies.

10 Now, I'm going to warn you, the videos that he kept,  
11 some of these videos are revolting, and the opinions he  
12 expresses are often offensive and his interest in the subject  
13 of ISIS borders on compulsive, but none of this is illegal.  
14 These are protected activities. They are protected thoughts,  
15 statements, and beliefs. And this is not -- and the person  
16 that the Government claims Mr. Pugh is someone who goes into,  
17 crosses the Turkish-Syrian border to join ISIS, that's not  
18 consistent with people that knew Mr. Pugh; that you'll see in  
19 evidence who Mr. Pugh was, who worked with people of different  
20 faiths, who never committed an act of violence in the name of  
21 any of these organizations and it was deeply, deeply  
22 offensive, with violence against innocent civilians. And a  
23 man who served his country honorably, who worked hard and  
24 strove for a simple, religious life with his family.

25 Tairod Pugh's support of ISIS was based in fantasy.

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1 The idea that he went to Turkey to join ISIS is a fantasy and  
2 the Government's accusations are a fantasy.

3                 Members of the jury, at the conclusion of this  
4 trial, I'm going to ask you to do what no one else in this  
5 case has done for my client. I'm going to ask you to protect  
6 him, to protect him as a citizen under our constitution. It  
7 protect him from the mercy of the prosecution to rescue him  
8 from the mercy of the prosecution. That is the great calling  
9 and the great function of an American jury -- to do justice.

10               Now, you asked to be on this jury, you could have  
11 been excused and were selected to be on this jury because you  
12 said you would be fair and we trusted you then, and at the end  
13 of this case, we will trust in your verdict and we trust that  
14 after consideration all of the evidence in this case, your  
15 verdict will be a verdict of not guilty.

16               Thank you.

17               (A brief pause in the proceedings was held.)

18               THE COURT: At this time, we'll proceed with the  
19 Government's case.

20               The Government will call its first witness.

21               MR. BINI: Your Honor, the Government calls James  
22 Wesley Hedrick.

23               COURTROOM DEPUTY: Sir, please raise your right  
24 hand.

25 JAMES WESLEY HEDRICK, called by the Government, having been

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1 first duly sworn, was examined and testified as follows:

2 THE WITNESS: Yes, sir.

3 COURTROOM DEPUTY: Please have a seat. Please state  
4 and spell your name for the record.

5 THE WITNESS: James Wesley Hedrick.

6 COURTROOM DEPUTY: Spell your last name.

7 THE WITNESS: H-e-d-r-i-c-k.

8 THE COURT: You may inquire.

9 DIRECT EXAMINATION

10 BY MR. BINI:

11 Q Mr. Hedrick, where do you work?

12 A Shepherd Air Force Base in Wichita Falls, Texas.

13 Q How long have you work at Shepherd Air Force Base?

14 A I've been at Shepherd Air Force Base since December of  
15 2003, so 12 years and 3 months.

16 Q And what company do you work for?

17 A I work for the United States Air Force.

18 Q How long have you worked for the United States Air Force  
19 in?

20 A Total with my active duty time, 28 years and 8 months.

21 Q Is that your entire career, sir?

22 A That is my entire career.

23 Q Did you start as an active duty noncommissioned officer?

24 A Yes, I started active as an duty noncommissioned officer  
25 and I went to a civilian capacity.

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1 Q When did you begin as an active duty noncommissioned  
2 officer for the United States Air Force?

3 A In June of 1986.

4 Q Did there come a time when you retired as a active duty  
5 noncommissioned officer?

6 A Yes, that was in March of 2008.

7 Q And did your career with the United States Air Force  
8 continue?

9 A It did. That's when I became a civilian.

10 Q Okay. What do you do at the United States Air Force?

11 A I instruct on avionics.

12 Q I'd like to ask you a little bit about your avionics  
13 experience.

14 While you were in active duty, can you explain what  
15 avionics means to the jury.

16 A Avionics is the instrument systems of your aircraft, how  
17 to fly the airplane, helps the pilot control the aircraft.  
18 The Chanute Air Force Base. I then went to a base in  
19 New Jersey, McGuire, and worked on 141 aircraft. The 141  
20 aircraft was retired and I went to a C5 at Dover and  
21 maintained there. From there, I went to Scott Air Force Base  
22 and maintained the C9 for a little while and I came to  
23 Sheppard to teach.

24 Q What do you teach at Sheppard Air Force Base?

25 A My part of the avionics course is the instruments and

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1 flight controls, so I teach the actual guidance and  
2 instruments of an airplane, the autopilot control systems, the  
3 navigation systems.

4 Q Where is Shepherd Air Force Base located?

5 A In Wichita Falls, Texas. It's the north central part of  
6 Texas, pretty much just inside the border.

7 Q What is Sheppard Air Force Base?

8 A Today, it's one of the main training facilities for the  
9 Air Force.

10 Q And how long have you been teaching avionics?

11 A 12 years and 3 months, about three months.

12 Q What year did you begin?

13 A I began in 2003.

14 Q How many Air Force airmen do you teach in your class?

15 A Well, the classes are broken up into two shifts. We have  
16 a day shift class and a swing shift class. I usually teach  
17 one class of those. The class size is usually between six and  
18 eight students. We try to keep them small, but, together, as  
19 the day shift and swing shift class, they'll graduate together  
20 at the same time.

21 We graduate them every 12 weeks. It's a  
22 12-week-long course. Each week is considered a block of  
23 instruction. Total, over a year, I may get minimum of four  
24 classes in, so six to eight with minimum of four classes, 24  
25 to 32 students a year for me.

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1 Q How long have you been doing that for again?

2 A For 12 years.

3 Q How many students have you taught, approximately, during  
4 that time?

5 A Better than 360.

6 Q Do the students who take your course receive college  
7 credit for?

8 A In most of the college, rather, the courses that the  
9 United States Air Force teaches do include some college  
10 courses. The credit hours that ours actually awards is 23  
11 credit hours.

12 Q And is your avionics training strictly in the classroom,  
13 or is it also out on the airplane?

14 A It's both. We have lecture in the classroom on an  
15 example system. We will have a trainer in the classroom for  
16 those particular systems that we change and, in later blocks,  
17 we have some times where we would go out to the airplane as  
18 well. We have a C130 for that.

19 Q Do you know how many hours you've spent teaching during  
20 your entire career?

21 A We keep track of that and it's 10,800 hours.

22 MR. BINI: Your Honor, may I approach the witness?

23 THE COURT: Yes, you may.

24 (Approaching the witness.)

25 (Handing to the witness.)

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1 BY MR. BINI:

2 Q Mr. Hedrick, do you recognize Government's Exhibit 1 for  
3 identification?

4 A Yes, Exhibit 1 is a personnel file.

5 Q And did the Government ask you to review this in  
6 preparation for your testimony?

7 A Yes, sir. The first time I saw the personnel file here  
8 in front of me was this Saturday, the 27th of February.

9 Q Okay. Who is the personnel file for?

10 A The personnel file is for Tairod Pugh.

11 Q Okay. And if you would look at Government's Exhibit 4.

12 A Yes.

13 Q Do you recognize what that is?

14 A This is the list of courses that the Air Force has given.  
15 We normally use this for a training rip, but it's just a list  
16 of courses. Essentially, it's a Community College of the Air  
17 Force transcript. It's basically like a transcript you will  
18 see from any normal college.

19 Q Who is this transcript for?

20 A This transcript is also for Tairod Pugh.

21 MR. BINI: Your Honor, at this time, the Government  
22 would ask to read into evidence a stipulation of the parties.

23 THE COURT: You may proceed.

24 MR. BINI: If I could put the Elmo on just so I can  
25 read it to the jury.

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1 (A brief pause in the proceedings was held.)

2 MR. BINI: Your Honor, Government's Exhibit 91 reads  
3 as follows:

4 It is hereby stipulated and agreed by and between  
5 the United States of America by Assistant United States  
6 Attorneys Samuel Nitze, Tiana Demas, and Mark Bini and the  
7 defendant, Tairod Nathan Webster Pugh, by attorneys Eric  
8 Creizman and Zachary Taylor that Government's Exhibits 1 and 4  
9 are true and correct copies regarding what the Government  
10 provided by United States Air Force.

11 Government Exhibit 1 is the Air Force's personnel  
12 and training file for the defendant.

13 Government Exhibit 4 is the Air Force's course  
14 transcript for the defendant.

15 This stipulation marked as Government's Exhibit 91,  
16 Government Exhibits 1 and 4 are admissible at trial in this  
17 case.

18 Your Honor, at this time, I would ask for the  
19 admission of Government's Exhibit 91, the stipulation, and  
20 Government's Exhibits 1 and 4.

21 MR. CREIZMAN: No objection.

22 THE COURT: Government's Exhibit 91, 1, and 4 are  
23 received in evidence.

24 (Government's Exhibits 1, 4, and 91 were received in  
25 evidence as of this date.)

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1                   THE COURT: You may publish the exhibits to the  
2 jury.

3                   MR. BINI: Thank you, your Honor.

4 BY MR. BINI:

5 Q        Mr. Hedrick, if I may approach with the exhibits.

6                   (Approaching the witness.)

7 Q        Mr. Hedrick, I'm going to ask you to look at Government's  
8 Exhibit 1 and go through the couple of the pictures if I  
9 could.

10 A        Okay.

11 Q        Are you familiar with personnel records like this?

12 A        Yes, sir. I have one as well.

13 Q        Are you familiar from your own personnel record?

14 A        Yes, I am.

15 Q        And did there come a time that the Government asked you  
16 to look at this personnel record?

17 A        Yes, on this last Saturday, the 27th of February.

18 Q        Do you know the defendant Tairod Pugh?

19 A        No, I do not.

20 Q        Did you serve with him in the United States Air Force?

21 A        No, I did not.

22 Q        I'm going to ask you to look at the first page that has  
23 TP06186 on the top and is titled, "Certificate from the dates  
24 discharged from active duty."

25                   Does it indicate the dates on which the defendant

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1 served in the United States Air Force?

2 A The dates would be right here (pointing). October of  
3 1986 to September 1990.

4 Q And does it indicate where the defendant was stationed  
5 when he completed his military service?

6 A In the block that says, "Station where Separated.  
7 Davis-Monthan Air Force Base.

8 Q Are you familiar with that Air Force base?

9 A It's in Illinois. It's in Arizona.

10 Q And does it indicate when the defendant completed basic  
11 training?

12 A Block 14, it says basic training was completed in  
13 December 1986.

14 Q When did you go through basic training, sir?

15 A I went to basic training in June of '86 -- June of '87.

16 Q Now, I'm going to ask you to look at page that has at the  
17 top TP016187 inside the same exhibit.

18 Do you see this enlistment and reenlistment  
19 document?

20 A Yes.

21 Q What we see, if you could explain what this record shows.

22 A Can you raise it up a little bit? In the B Section,  
23 right here, this is where he's being released from inactive  
24 reserve. The inactive reserve was called a Delayed Entry  
25 Program. The Delayed Entry Program is a spot reservation for

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1 perhaps a delay in training or perhaps to finish high school  
2 or something of that nature. And the end of the actual active  
3 service this is the date that this was taken care of in 1986,  
4 October 31st, it looks like.

5 Q Now, I'd like to ask you to look at the page at the top  
6 that has TP016190.

7                   What's shown on this page?

8 A The oath of office. This block down here is where says  
9 it the defendant will support and defend the constitution of  
10 the United States.

11 Q What's the signature date on that if indicated on that  
12 document?

13 A October 31, 1986.

14 Q I'd like to ask you to look at the page that's marked  
15 TP16205.

16 A Okay.

17                   THE COURT: I don't see the number at the top.

18                   MR. BINI: Oh, I'm sorry, your Honor.

19 Q I ask you to look at the page that has TP16205 at the  
20 top. And it's has the heading "Classification On-the-Job  
21 Training Action."

22                   Can you look at this page, sir, and tell us what  
23 does this page show.

24 A This page is showing the awarding of his Five Level in  
25 his career field.

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1 Q What's a Five Level?

2 A A Five Level starts off as a skill level of one, you know  
3 nothing on the system. Skill Level of three, as you would  
4 give a tech school, you basically have general knowledge. A  
5 Skill Level 5 means you can work by yourself on these systems.  
6 It goes to seven for expert troubleshooting and nine for  
7 masters.

8 Q What is the defendant's career field indicate?

9 A The indication on this career field is for avionics. At  
10 the time that was the general career field number for all  
11 avionics across all Air Force aircraft.

12 Q Now, I'd like to ask you to look at the page that has at  
13 the top TP016206.

14 What does this page indicate?

15 A This is talking about his promotion to A1C, Airman 1st  
16 Class, is the pay skill E3. That was in June of '88, 1988.

17 Q What is an Airman 1st Class?

18 A Airman 1st Class is two stripes, basically, a Five Level  
19 able to work on the class by himself, kind of thing.

20 Q Now, I'd like to ask you about the page that has TP016208  
21 at the top of that.

22 A This is also a rank adjustment. From this one is showing  
23 that he went to E2 right here. E2 is the airman and that was  
24 in 1987. The records are arranged from most recent to  
25 later-on dates.

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1 Q Mr. Hedrick, in your review of Government's Exhibit 1,  
2 does Government's Exhibit 1 indicate where Tairod Pugh was  
3 stationed at certain points during his career?

4 A Throughout the whole record, yes, you can get out of  
5 where he was actually stationed. There isn't one that has all  
6 of his stations.

7 Q And where did you see in the personnel records were the  
8 stations that he spent time at?

9 A From his main DD214 it said that he was Davis-Monthan Air  
10 Force Base in Arizona. Davis-Monthan Air Force Base was his  
11 main base. On one of his performance reviews, I could see  
12 that he was at Lakenheath Air Force Base, that was in the  
13 United Kingdom. And Tech school was Chanute Air Force Base  
14 where he made airman. And, of course, his basic training was  
15 San Antonio, Texas where all basic training is done.

16 Q Okay. Does it indicate a squadron that he was assigned  
17 to at one of those bases?

18 A At Davis-Monthan, he was assigned to 23rd CAMS, which is  
19 the Consolidated Aircraft Maintenance Squadron.

20 Q What types of planes does 23 CAMS work on, if you know,  
21 sir?

22 A A-10.

23 Q Have you ever worked on an A-10?

24 A No, I haven't work on the A-10s.

25 Q Are you familiar with the A-10 aircraft?

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1 A I'm familiar with the Air Force. Being at Sheppard, the  
2 courses that we teach we do have people that actually teach  
3 that same course for the A-10.

4 Q Do you have access to A-10s as a result of your work at  
5 Sheppard?

6 A Yes, I do.

7 Q Have you reviewed the A-10 plane?

8 A It's in our hangar, we actually go out there and show the  
9 students, our students, even though they're going to heavy  
10 aircraft, some other aircraft they will see some of the  
11 different things we do have. Some get on the aircraft and  
12 actually inspect a little bit and show different things are on  
13 the air force, turn the power on, those kind of things, so  
14 they get an idea of what it's like.

15 Q What is the A-10 aircraft?

16 A The A-10 aircraft is the A part of that stands for an  
17 attack aircraft. The attack aircraft is for ground support  
18 mainly. You may have also heard it called a "tank killer."  
19 Its main weapon is a Gatling-type gun on the front that  
20 actually has armor-piercing ammunition that can blow up tanks.

21 Q What types of weapons would it have had in 1987 if you  
22 know, sir.

23 A The A-10 came with the GAU-8. The GAU-8 was the main.  
24 It also had equipment pods along the wings that you can put on  
25 Stinger, Sidewinder guided missiles, laser missiles. At the

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1 time in '86-'87 time frame, the lasers weren't out yet. So  
2 the more guided types with cameras.

3 Q Did the Government also ask you, Mr. Hedrick, at some  
4 point to look at Government's Exhibit 4 as well.

5 A Yes, I saw that earlier in February.

6 Q And is this the training file that you described for  
7 Tairod Pugh?

8 A This is the training file that they had shown me, yes.  
9 The transcript for the CCAF.

10 Q Okay. Can you walk us through his training starting from  
11 the earliest training on down?

12 A The first entry there is for his basic military training,  
13 that's the basic training at San Antonio, Texas. From there,  
14 you get four credits over here for your physical education  
15 which we do there.

16 Q Let me stop you there and just ask you a question about  
17 basic training.

18 When does it indicate that this credit was awarded?

19 A It indicates the 23rd of April, 1987.

20 Q Is that when he would have completed it?

21 A No, that was just when the file here caught up with it.  
22 He actually graduated in December from basic training.

23 Q Okay. That's what was indicated in Government's  
24 Exhibit 1?

25 A That's what was indicated on his DD Form 214.

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1 Q Okay. And when did you go to basic training again?

2 A In June of 1987.

3 Q And are you familiar with what the United States Air  
4 Force training was back in the 1986-1987 timeframe?

5 A Yes, it was a six-week course.

6 Q And where was it taught at that time?

7 A San Antonio, Texas.

8 Q You said it's a six-week course. Is this like a 40-hour  
9 week?

10 A No, it's 24/7. You go there from day one and you'll have  
11 one day off right before graduation and that's pretty much it  
12 day and night.

13 Q What did training consist of, basic training, in the  
14 United States Air Force back in that timeframe?

15 A It was literally just basic stuff. We went and learned  
16 customs and courtesies of being in the military, attention to  
17 detail kind of things, how to fold our clothes, how to clean  
18 our rooms, how to make other beds, basic stuff like that.

19 We had some courses that were a little more involved  
20 like our first aid course which is called "Self-Aid Buddy  
21 Care." The Self-Aid Buddy Care course taught us different  
22 things about how to take care of people that may be injured in  
23 the field. We had one day of weapons training, a day of  
24 obstacle course training, and that's pretty much it.

25 Q You said you had weapons training?

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1 A Yes.

2 Q What weapon were you trained on?

3 A On the M-16.

4 Q What did that training consist of?

5 A The training consisted of a safety course. We are taught  
6 about the different parts of the weapon, how to take it apart,  
7 how to put it together, those kind of things. Learn how to  
8 point the gun.

9                   Then we took the gun out to the range, shot about 40  
10 rounds to qualify on it. Actually sight our target first, and  
11 then we shot the 40 rounds to qualify on it. We had to hit 30  
12 out of 40 to actually get a qualification in that weapon. And  
13 then, after that the qualification, we had to clean the gun.

14 Q And following basic training did you have to ever  
15 requalify on the M-16?

16 A At the time of basic, I went to it was once a year so we  
17 annually requalified.

18 Q What was the requalification process?

19 A The same thing. We had a safety course in the morning.  
20 We went and shot first thing in the afternoon, and cleaned it  
21 when we were done.

22 Q You also mentioned you received training in Self-Aid or  
23 Buddy Care what's that?

24 A The Self-Aid Buddy Care is like a CPR course on steroids.  
25 You learned basic CPR skills and it went further to address

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1 injuries such as broken bones, and eye out of the socket, a  
2 hole in your chest, chest cavity, bandage over those kind of  
3 things to protect somebody long enough in the field until they  
4 can be evacuated.

(Continued on the next page.)

Hedrick - Direct - Bini

1 BY MR. BINI:

2 Q Mr. Hedrick, I'd like to ask you about the avionics  
3 training that Mr. Pugh received.

4 A Okay.

5 Q So going back to Government's Exhibit 4, can you walk us  
6 through the avionics training that Mr. Pugh received at  
7 Chanute Air Force Base?

8 A The avionics training at Chanute was actually broken into  
9 two sections; the electronics principles part and the actual  
10 avionics parts. On the electronics principles, we're just  
11 talking, in general, circuit-type systems. We learn about AC  
12 circuits, and the AC circuits, how to actually solder. Like  
13 the one right here, soldering connections and kennel plugs.

14 Once you're done with the electronic principle  
15 portion of that, then you went and done (sic) the avionics  
16 portion of that, where you learn basic fundamentals of avionic  
17 systems, safety things, things to watch out for, the engine  
18 instrument systems. The engine instrument system consists of,  
19 like, the RPM systems of the engine, how fast it's rotating,  
20 the heat, the temperature systems on your engines, the power  
21 systems on your engine, engine pressure, EPR systems,  
22 basically how much thrust is being produced, the flight nav  
23 (sic) system.

24 The flight nav is getting into the actual heading  
25 and bearing on the system, so you can get direction from those

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1 types of systems. And there's several different systems on  
2 each aircraft for that, kind of a backup. Then the flight  
3 instruments in this line. The flight instruments is for air  
4 data instruments, telling how high you're flying altitude  
5 wise, how fast you're flying airspeed wise on your aircraft,  
6 how to test the system.

7 Q And up top, where it says "avionic instrument systems  
8 back," what's that?

9 A Specialist. Specialize in -- this whole area down here,  
10 that goes into make up this whole area up here. That's the --  
11 basically the title of each of those courses, each of those  
12 sections. You can consider each of those sections kind of a  
13 block of training.

14 Q What's the time period of this training at Chanute Air  
15 Force Base?

16 A Looks like it was in July of 1987, so straight after  
17 basic until July.

18 Q Can you count up how many credit hours?

19 A The course is 36 credits.

20 Q All these courses, you've added them up?

21 A Yes.

22 Q Okay. How long would it take you in real time to earn  
23 these 36 credit hours?

24 A It's about 18 weeks. A little over 18 weeks.

25 Q About four months?

Hedrick - Direct - Bini

1 A Four-and-a-half months, yes.

2 Q Would the training that Mr. Pugh received at Chanute Air  
3 Force Base in avionics have application on a single plane?

4 A Similar plane?

5 Q No. On only one type of plane.

6 A No, the systems that I talk about is the same thing we do  
7 now. It's generalized. Like this career field, this over  
8 here, could be any aircraft in any air force inventory. The  
9 same course we teach now, these 14 different airplanes, so  
10 it's going to be just a general thing. Maybe an example from  
11 one specific aircraft. It may not even be your aircraft, but  
12 it could be applied to pretty much any aircraft you go to.

13 Q Okay. Now, I'd like to ask you to look down, and take us  
14 through the other training that was received.

15 A These down here are the career field courses. Once you  
16 get to your base, you have specialized courses that give you  
17 more information on more training in your particular area.  
18 The very first one there has the maintenance and data  
19 collection system. That collection system is basically our  
20 records for maintenance. You'll go into that kind of system  
21 to put in what they call saving time. You take time for a job  
22 you've done. You type in what you did for that job, what  
23 fixed it, and it becomes a history report.

24 Later on you can call it back and see what was done  
25 on the aircraft, if you continue to have problems with the

Hedrick - Direct - Bini

1 system. That same data system can also be used for personnel,  
2 so you know how many people they needed on the base,  
3 maintenance. Management reviews it and makes sure  
4 everything's being done correctly. When they need to order  
5 more people, they have orders come into the base, and when  
6 they're losing people, those kinds of things.

7 THE COURT: Does that system collect information on  
8 replacement parts that are put on aircraft?

9 THE WITNESS: On some aircraft, yes. You'll put in  
10 part numbers for the part you changed out, but it doesn't  
11 actually track those particular aircraft.

12 THE COURT: Is there a life limit for the different  
13 parts, or you just use them until they stop working?

14 THE WITNESS: Exactly. You use them until they  
15 stop working. Once one goes bad on the aircraft, they replace  
16 it. It goes back to the supply system, and it gets repaired.

17 THE COURT: Go ahead.

18 MR. BINI: Thank you, your Honor.

19 Q Can you take us through, sir, the training down here,  
20 where it says "810 inertial nav sys." What's that?

21 A The 810 Inertial Navigational. The Inertial Navigational  
22 System is a stand-alone type of system that is sensing  
23 acceleration. It senses the -- it feels the aircraft moving,  
24 and it can tell you where you're at from there. All you need  
25 to do is type in where you start at, and it's kind of a dead

## HEDRICK/CROSS/TAYLOR

1 wrecking machine. It adds where you're going. It tells you  
2 which way to fly, and it helps you navigate through different  
3 points of the aircraft flight.

4 Q What about -- AVI weapons control sys, what's that?

5 A The Avionics Weapons Control Systems, that would be  
6 putting the avionic systems, like the autopilot system, like  
7 the navigation systems, integrating it with the avionic --  
8 with the actual weapon systems on the aircraft. Kind of a  
9 helping put bombs on targets. It's going to help the  
10 autopilot line up where it should work better, where it works  
11 with the missiles better.

12 Q Would this training have application on other planes?

13 A It is specific for the 810 that you have here. The  
14 generalist aspect of that may be applied to a different  
15 aircraft, but how it integrates with that particular aircraft  
16 would be different than an A-10.

17 MR. BINI: No further questions from the government,  
18 your Honor.

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q Good morning, Mr. Hedrick.

22 A Good morning.

23 Q My name is Zachary Taylor.

24 THE COURT: I think you may have turned off the  
25 microphone.

Hedrick - Cross - Taylor

1 MR. TAYLOR: Yes, I did, your Honor.

2 THE COURT: Go ahead.

3 BY MR. TAYLOR:

4 Q Good morning, sir.

5 A Good morning.

6 Q My name is Zachary Taylor, and I'm one of the attorneys  
7 representing the defendant, Mr. Pugh, and I'm going to ask you  
8 some follow-up questions. Okay?

9 A Yes.

10 Q Mr. Hedrick, you would consider yourself knowledgeable  
11 about military aircraft in general; is that right?

12 A In general, yes.

13 MR. TAYLOR: Your Honor, we would like to play a  
14 video whose admissibility has been stipulated by the  
15 government; however, it's not been entered into evidence, as  
16 of this time.

17 MR. NITZE: No objection.

18 THE COURT: Very well. I just need to know the  
19 exhibit number.

20 MR. TAYLOR: Of course. It's Government Exhibit  
21 66L.

22 THE COURT: Which?

23 MR. TAYLOR: 66L.

24 THE COURT: All right.

25 MR. TAYLOR: I'll show it now.

Hedrick - Cross - Taylor

1                   THE COURT: It's on the laptop. You have it  
2 attached on the laptop at the podium. Let's see if this one  
3 works. There are only two choices, so I'm going to see which  
4 one is right.

5                   MR. TAYLOR: Can you see it, your Honor?

6                   THE COURT: I see it now. And everyone else does  
7 too.

8                   This is admitted in evidence on consent?

9                   MR. NITZE: Your Honor, it hasn't been admitted into  
10 evidence yet, but it will be admitted on consent. Defense  
11 counsel spoke with us about this particular clip before. We  
12 have no objection.

13                  THE COURT: I'm going to admit 66L without  
14 objection, then. Is that agreeable?

15                  MR. NITZE: Yes.

16                  THE COURT: All right. Let's go ahead.

17                  (Government's Exhibit 66L was received in  
18 evidence.)

19                  THE COURT: Does it have sound?

20                  MR. TAYLOR: It does have sound.

21                  THE COURT: Let's hope for the best. Go ahead.

22                  MR. TAYLOR: I'll turn the sound up.

23                  THE COURT: Just not all the way.

24                  MR. TAYLOR: Okay. It's about three quarters.

25 BY MR. TAYLOR:

Hedrick - Cross - Taylor

1 Q Mr. Hedrick, what I would like you to do is just watch  
2 this video; I'll play it for you, and we can go back and pause  
3 at certain points.

4 (Videotape played for the jury.)

5 Q Sir, did you get a good look at the plane that's in that  
6 video clip?

7 A Yeah, I looked at the plane.

8 Q You've seen this video before, sir?

9 A No, I have not.

10 Q And you don't understand the Arabic language, do you?

11 A Not a bit.

12 Q You recognize what model of airplane this is; right?

13 A Not to be sure. It may be one of the older MiGs.

14 Q A MiG is a Russian airplane?

15 A It was Russian built, yes.

16 Q So you think this is a Russian airplane?

17 A Like I said, I'm not able to identify it specifically,  
18 but the older look to it is kind of reminiscent of a MiG.

19 Q Are you familiar with a book called "Jane's Aircraft  
20 Recognition Guide"?

21 A No.

22 Q Are you aware of a publishing company called "Jane's"  
23 that puts out an annual publication identifying all the  
24 aircraft in the world?

25 A I've seen some of those books, like, in the store.

Hedrick - Cross - Taylor

1 Q Yes, Jane's, J-a-n-e apostrophe "S", you've heard of  
2 that?

3 A Yes.

4 Q And you know that people refer to this book in order to  
5 see what airplanes they've never seen themselves before look  
6 like?

7 A Some, yeah.

8 Q And Jane's has been around for at least a hundred years?

9 A I have no idea on that.

10 Q Is it considered an authority on recognizing aircraft?

11 A I'm not real sure. I've seen it a few times at the  
12 bookstore, mostly the picture part of that. If you're really  
13 interested in aircraft, a lot of times you may get those kind  
14 of books to see different type of aircraft across the world.  
15 I'm not sure who would use them for actual identification  
16 purposes on them, but I thought it was kind of a picture book.

17 Q Is it a picture book that's for the purpose of  
18 identifying aircraft?

19 A You could, yes.

20 Q And is it authoritative for identifying aircraft?

21 A I'm not sure how accurate it is.

22 Q Do you know that people take photographs of airplanes,  
23 including airplanes from the Eastern Bloc, and put them in  
24 that book?

25 A They have them from all over the world.

NICOLE CANALES, CSR, RPR

Hedrick - Cross - Taylor

1 Q Would you refer to this book in order to --

2 A I don't have one. No.

3 MR. BINI: Your Honor, I'm going to object to a  
4 question about a book he's not familiar with.

5 THE COURT: Sustained.

6 BY MR. TAYLOR:

7 Q So you said that you think this plane that was in the  
8 video is a Russian MiG?

9 A An older one, is what it seems like to me.

10 Q Is it possible that it is a different kind of plane?

11 A It is a little too short for a Tornado, but that would be  
12 my second guess.

13 Q Have you ever heard of a plane called an L-39 Albatros?

14 A Albatros is the one that was in the "Expendables", the  
15 movie.

16 Q Unfortunately, I haven't seen it. Maybe I should have  
17 before. L-39 Albatros is not a Russian-built plane, is it?

18 A No, I believe it's French.

19 Q Have you heard of the aircraft company called Aero  
20 Vodochody?

21 MR. BINI: Objection, your Honor.

22 THE COURT: Sustained.

23 BY MR. TAYLOR:

24 Q In any case, the plane that you see in the video is not  
25 an American airplane, is it?

Hedrick - Cross - Taylor

1 A No.

2 Q The air force of the country of Syria was supplied by  
3 Eastern Bloc; is that correct?

4 A I have no idea.

5 Q Has Syria been an ally of the United States?

6 MR. BINI: Objection, your Honor.

7 THE COURT: Sustained. Beyond the scope.

8 Q I'm going to play another video for you, sir.

9 A Okay.

10 THE COURT: But why don't we find out what it is,  
11 first.

12 MR. BINI: Your Honor, can we have a brief sidebar?

13 THE COURT: Okay.

14 (Sidebar.)

15 (Outside the presence of the jury.)

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NICOLE CANALES, CSR, RPR

## Sidebar

1 (Sidebar.)

2 MR. BINI: Your Honor, I apologize for the stoppage.  
3 We are not going to object to admission of these videos; we've  
4 stipulated to them. However, I just wanted to note some  
5 questions about them may be appropriate, and continuing to ask  
6 the witness about things he's not familiar and video he's not  
7 seen, I'm going to continue to object. I think some questions  
8 may be relevant, but it's something that he has no basis to  
9 know about. I'm not certain what the purpose of the question  
10 is.

11 MR. TAYLOR: I won't ask him any more questions  
12 about that.

13 THE COURT: But you're going to ask him about  
14 another plane, so if he doesn't know anything about it and  
15 never seen it before, there's no sense in proceeding as to  
16 that plane. You can ask him the setup question, if you will,  
17 but if he doesn't really have the knowledge of that piece of  
18 equipment, then just move on, at that point.

19 The exhibit, you'll identify the exhibit number; the  
20 other side will stipulate that it's going in, and then we'll  
21 move on.

22 MR. TAYLOR: Okay.

23 THE COURT: All right. About how much more do you  
24 have for this witness?

25 MR. TAYLOR: I would say maybe ten minutes.

## Sidebar

1                   THE COURT: All right. Well, let's finish with this  
2 witness and see where we are time-wise.

3                   MR. TAYLOR: Okay.

4                   THE COURT: Do you think you'll have any redirect?

5                   MR. BINI: Just very brief.

6                   THE COURT: Let's see where we are. We may break  
7 after this witness.

8                   Who is the next witness?

9                   MR. NITZE: Mr. Street. And he's fairly short.

10                  THE COURT: Fairly short is?

11                  MR. NITZE: Fifteen minutes.

12                  THE COURT: So we'll do that after lunch probably.

13                  Thank you.

14                  (Sidebar concluded.)

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Hedrick - Cross - Taylor

1 (In the presence of the jury.)

2 MR. TAYLOR: The next video we would like to play is  
3 Government Exhibit 66I, as in Ivan.

4 THE COURT: Any objection admitting that evidence,  
5 66I?

6 MR. NITZE: No objection.

7 THE COURT: Government Exhibit 66I is received in  
8 evidence, and you may play it for the jury.

9 (Government's Exhibit 66I was received in  
10 evidence.)

11 MR. TAYLOR: Thank you. Just to clarify for the  
12 record, this is 66I, Excerpt 1.

13 (Videotape played for the jury.)

14 THE WITNESS: I don't see it.

15 THE COURT: Do you see it now?

16 THE WITNESS: Yes.

17 THE COURT: Let's try again.

18 MR. TAYLOR: All right. I'll play it from the  
19 beginning.

20 THE COURT: This doesn't have sound?

21 MR. TAYLOR: It's supposed to have sound. It's not  
22 really important.

23 THE COURT: All right.

24 (Videotape played for the jury.)

25 MR. TAYLOR: I'll stop it there.

Hedrick - Cross - Taylor

1 BY MR. TAYLOR:

2 Q Have you gotten a good look at that excerpt?

3 A Yes.

4 Q And you've never seen this video before, either?

5 A No, I have not.

6 Q Do you recognize the plane that's in that video?

7 A Not, again, by number. They all have special  
8 identification numbers, and I couldn't tell you that one.

9 Q So you've testified earlier that training on an A-10 --  
10 that's the A-10 Warthog; is that what that plane is?

11 A Yes.

12 Q That's a U.S. military plane?

13 A Correct.

14 Q You testified earlier that training on an A-10 has  
15 general applicability to working on the avionic systems of  
16 other U.S. jets?

17 A Yes.

18 Q It doesn't have any applicability to working on a Russian  
19 jet, does it?

20 A All aviation is pretty much the same; it's pretty much  
21 standardized across the board. Even to fly internationally,  
22 they have, like, one language used; the only thing that may be  
23 different is the writing on the box.

24 Q But you've never been in the avionic cockpit of a MiG,  
25 have you?

Hedrick - Cross - Taylor

1 A Of a MiG, no.

2 Q And you've never worked on the avionics system of a MiG,  
3 have you?

4 A On a MiG, no.

5 Q You've never worked on the avionic system of any  
6 Soviet-built airplane, have you?

7 A Not Soviet built. French and Italian, yes.

8 Q Now, you testified earlier that the plane that you saw in  
9 the first video looked like an old plane; right?

10 A It looked older; yes.

11 Q Now, planes that were built 30 years ago, let's say,  
12 become technologically obsolete, don't they?

13 A Sometimes. A lot of times people will update systems on  
14 the aircraft. The systems themselves, like off-the-shelf kind  
15 of items, you buy a system to install in your aircraft.

16 Q What about the plane that you saw in the second video;  
17 does that look like an old plane?

18 A It looked like older airplane as well.

19 Q Does that look like a Vietnam-era plane?

20 A It does.

21 Q Have you ever performed a quality assurance evaluation on  
22 any Russian plane?

23 A Not on Russian airplanes, but I was a quality assurance  
24 inspector.

25 Q And you've never worked on the electrical system of and

Hedrick - Cross - Taylor

1 Russian plane, have you?

2 MR. BINI: Objection, your Honor. Asked and  
3 answered.

4 THE COURT: Sustained.

5 Q Have you ever performed a modification or an update of a  
6 Russian fighter plane?

7 MR. BINI: Objection, your Honor.

8 THE COURT: Sustained.

9 MR. TAYLOR: Thank you, your Honor. I have no  
10 further questions.

11 THE COURT: You should check with your client first.  
12 (Counsel confers with the defendant.)

13 THE COURT: Anything else?

14 MR. TAYLOR: Yes, your Honor.

15 THE COURT: Go ahead.

16 MR. TAYLOR: May I put the video back on the  
17 screen for a moment, your Honor?

18 THE COURT: Sure.

19 BY MR. TAYLOR:

20 Q Mr. Hedrick --

21 A Uh-huh.

22 Q -- do you see that still photo?

23 A Yes.

24 Q That plane -- you can't tell if that plane -- strike  
25 that. You can't tell if that plane is functional, can you,

## HEDRICK/REDIRECT/BINI

1 Mr. Hedrick?

2 A Not from this distance. Looks like there's pieces  
3 missing off the tail.

4 Q That plane is sitting outside, isn't it, Mr. Hedrick?

5 A It is.

6 Q You can't tell how long it's been sitting outside?

7 A No.

8 Q A plane that's been sitting outside for a long time under  
9 the desert sun can be affected by the elements; isn't that  
10 right?

11 A It can be, but probably less than it would be if it was a  
12 wet environment.

13 MR. TAYLOR: No further questions, your Honor.

14 THE COURT: All right. Any redirect?

15 MR. BINI: Just a brief redirect, your Honor.

16 THE COURT: All right.

17 REDIRECT EXAMINATION

18 BY MR. BINI:

19 Q Mr. Hedrick, you were cross-examined regarding non-U.S.  
20 planes that you have worked on?

21 A Uh-huh.

22 Q And you indicated that at some point you worked on some  
23 French and Italian planes?

24 A Correct.

25 Q Were you able to work on their avionics?

Hedrick - Redirect - Bini

1 A Yes, I was. I didn't actually do any maintenance on a  
2 Russian aircraft, but doing air shows, occasionally we were  
3 allowed to see Russian aircraft. So the only Russian aircraft  
4 that I was actually on and had a little experience with was  
5 the A and 124. The A and 124 is the C-5 equivalent.

6 Q Is that a transport plane?

7 A It's a transport plane.

8 Q What were the avionics like?

9 A Pretty much the same as ours.

10 Q You were asked regarding the age of the planes that we  
11 saw in the videos?

12 A Correct.

13 Q Some of them appear to be 30 years old?

14 A Some of them appear to be very old, yes.

15 Q Okay. When was it that the defendant started in the Air  
16 Force?

17 A Twenty-eight years. Same time as me.

18 Q Almost 30 years ago?

19 A Almost 30.

20 MR. BINI: Okay. No further questions, your Honor.

21 THE COURT: Anything else from the --

22 Anything else, sir?

23 MR. TAYLOR: No, your Honor.

24 THE COURT: Very well. The witness is excused.

25 You may stand down, sir.

STREET/DIRECT/NITZE

1                   The government may call its next witness, if it  
2 wishes, or we can take lunch now.

3                   MR. NITZE: We can call the next witness.

4                   THE COURT: Why don't we call the next witness, and  
5 we'll take lunch at 1:00.

6                   MR. NITZE: The government calls Andrew Street.

7                   THE COURT: Very well. Please raise your right  
8 hand, sir. Do you solemnly swear that the testimony that you  
9 shall give in this case on trial will be the truth, the whole  
10 truth and nothing but the truth, so help you God?

11                  THE WITNESS: Yes, sir.

12                  THE COURT: Please be seated. Please state and  
13 spell your full name for the record.

14                  THE WITNESS: Andrew David Street, A-n-d-r-e-w,  
15 D-a-v-i-d, S-t-r-e-e-t.

16 ANDREW DAVID STREET,

17 called as a witness, having been first duly sworn, was  
18 examined, and testified as follows:

19                  THE COURT: You may inquire.

20                  MR. NITZE: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. NITZE:

23 Q    Good afternoon, Mr. Street.

24 A    Good afternoon, sir.

25 Q    Where do you work?

STREET/DIRECT/NITZE

1 A Kalitta Air.

2 Q What is Kalitta Air?

3 A We are an airline that ships cargo, and we have a repair

4 facility.

5 Q Where is the company headquartered?

6 A Ypsilanti, Michigan.

7 Q And where are you based?

8 A Iosco, Michigan.

9 Q What is your job with Kalitta Air?

10 A I'm an avionics technician.

11 Q Does Kalitta Air maintain facilities overseas?

12 A Yes, sir. We have an outstation in Dubai.

13 Q Dubai is where?

14 A In the United Arab Emirates, over in the Middle East.

15 Q How long have you been with Kalitta Air?

16 A Three years.

17 Q And before that?

18 A Before that I worked for Lockheed Martin, and before that

19 I was in the U.S. military.

20 Q Okay. And you mentioned you're an avionics specialist.

21 Can you explain to the jury just a little bit more what that

22 means?

23 A I work on the airplane portion. I work on the flight

24 controls, the navigation, communication, the electronic

25 portion of the airplane.

STREET/DIRECT/NITZE

1 Q Are you also qualified as an airplane mechanic?

2 A Yes, sir.

3 Q Where did you learn these skills?

4 A I first learned these skills in the Air Force, where I  
5 was an avionic technician for fighter aircraft.

6 Q When were you in the U.S. Air Force?

7 A From 2000 to 2006.

8 Q Are the skills that you learned in the Air Force, have  
9 applied since, transferable to other types of aircraft?

10 A Yes, sir. We learned how to read schematics, how -- the  
11 principles of electricity, and how they work, and components,  
12 and stuff, how to run wiring, repair wiring, stuff like that.

13 Q Do you know a man named Tairod Pugh?

14 A Yes, sir, I do.

15 Q Do you see him in the courtroom today?

16 A Yes, sir, I do.

17 Q Could I ask you to identify him by an article of  
18 clothing?

19 MR. TAYLOR: Your Honor, we can see that  
20 identification.

21 THE COURT: Let him identify the individual.

22 What's he wearing?

23 THE WITNESS: A black sport coat with a light-blue  
24 shirt and tan pants.

25 THE COURT: Let the record indicate that the witness

STREET/DIRECT/NITZE

1 has identified the defendant.

2 You may proceed.

3 BY MR. NITZE:

4 Q When did you first meet Mr. Pugh?

5 A I met Mr. Pugh in December of 2013, at Iosco, Michigan.

6 Q Who was he working for, at the time?

7 A He was working for Kalitta Air.

8 Q What was the context of your meeting?

9 A The avionics manager had set it up, because he was  
10 getting ready to go over to Dubai to work the outstation, just  
11 so we can talk a bit before.

12 Q You mentioned an avionics manager; who was that?

13 A The avionics manager is Dave Favor; he does all the  
14 hiring, and he's in charge of all the avionics technicians.

15 Q Just to be clear for the jury, who was planning to move  
16 overseas?

17 A Mr. Tairod Pugh was.

18 Q And did somebody arrange this meeting, or why is it that  
19 you ended up meeting him?

20 A Mr. Favor, the avionics manager did, so that I could give  
21 him some information on different tools he may need, and some  
22 information about the area over there, since I'd been over  
23 before.

24 Q How long would you say that meeting lasted?

25 A Maybe an hour, at the most.

STREET/DIRECT/NITZE

1 Q Do you happen to know how long Mr. Pugh had been with the  
2 company, at that point?

3 A I believe he started earlier that year. I don't know the  
4 exact date.

5 Q Did you come to see Mr. Pugh again after that first  
6 meeting?

7 A Yes, sir. In July of 2014.

8 Q Where was that?

9 A In Dubai.

10 Q And where specifically?

11 A Dubai World Center is the airport that we worked at in  
12 Dubai.

13 Q What were you doing in Dubai?

14 A I was there as an avionics technician to work on an  
15 airplane. We had two or three airplanes that we'd fly and  
16 then we repair them there.

17 Q What sort of work does Kalitta do from the air station in  
18 Dubai?

19 A In Dubai we would fly food and supplies up to  
20 Afghanistan, up to military bases, and then we would bring  
21 equipment and stuff back into Dubai, so they can ship it out  
22 to the port.

23 Q When you say military bases, are these U.S. military  
24 bases?

25 A Yes.

STREET/DIRECT/NITZE

1 Q So this is a cargo shipping contract with U.S. military;  
2 is that right?

3 A Yes, sir.

4 Q And when you arrived in Dubai, was Mr. Pugh already  
5 there, or did he come after you?

6 A He was already at the station when I got there.

7 Q And how long did you all overlap, you and Mr. Pugh, that  
8 is, in Dubai?

9 A We overlapped from July to August of 2014.

10 Q If you had to estimate number of weeks, what would you  
11 say?

12 A I would say probably 40 days.

13 Q Okay. While you were posted in Dubai with Mr. Pugh, did  
14 you work together, or could you just explain the context of  
15 your working relationship there?

16 A We worked the night shift there. There was four people  
17 on the station. We had a manager and a mechanic that worked  
18 day shift, and then Mr. Pugh and I worked the night shift  
19 together.

20 Q Excuse me. And when you weren't working on aircraft,  
21 where would you be posted at work?

22 A A lot of times when we would wait for an airplane to come  
23 in or launch of an aircraft, we had some downtime, so we had  
24 an office that we would sit in. And next to the office we had  
25 a bathroom with a shower, and then we had a place where we

STREET/DIRECT/NITZE

1 would cook some food, and we also had parts we would store  
2 there.

3 Q Could you describe the office?

4 A The one office was probably about a 20-by-20 room. We  
5 had a desk, computer there, radios, places to charge phones,  
6 fax machine, stuff like that.

7 Q And did Kalitta employees have access to that computer  
8 during working hours?

9 A Yes, sir.

10 Q Did you ever observe the defendant using that computer?

11 A Yes, sir.

12 Q How often would you say?

13 A We would all use it daily.

14 Q Did you ever see him using or accessing Facebook on that  
15 computer?

16 A Yes, sir, I did.

17 Q How often would you say?

18 A He would access it daily or multiple times throughout the  
19 day.

20 Q Okay. Were you able to view the types of content that  
21 the defendant was accessing on that computer?

22 A Yes. The computer was in the corner, facing out to the  
23 middle, so we could see what was on the computer, yes.

24 Q And could you generally describe the nature of that?

25 A Some of the stuff that I saw that was on his Facebook

STREET/DIRECT/NITZE

1 page, in particular, was -- there were a lot of children that  
2 were injured that was on there. There was comments and posts,  
3 and then there was other pictures and stuff that were on there  
4 too.

5 Q Were you able to read the posts?

6 A The posts were too far away. From five, six feet away,  
7 it's hard to read small writing, but you could see the  
8 pictures and stuff.

9 Q Were there any images that you remember in particular?

10 A Like I said, there was (sic) a children that were being  
11 injured. And then there was one particular picture that  
12 stands out in my mind. There was a -- looked like it was a  
13 cartoon drawing; looked like an older gentleman laying back,  
14 who had a blue-and-white star on his crest, and then there was  
15 a gentleman in Arab garb holding him with a knife in his  
16 chest. And the comment on the picture was, "If fighting for  
17 my religious freedom makes me a terrorist, I am a terrorist."

18 Q Did Mr. Pugh ever express any political or other views to  
19 you relating to the United States?

20 A He had made the comment that he never wanted to go back  
21 to the United States.

22 Q Did he go by any other names when you would worked with  
23 him?

24 A He told me that he liked to be called "Omar."

25 Q What steps, if any, did you take as a result of viewing

STREET/CROSS/CREIZMAN

1 this Facebook content?

2 A First I brought it up to him and asked him not to look at  
3 it in the office because it bothered me. He continued to look  
4 at them, so I filed a complaint with our human resources.

5 Q And what was the result of that, if you know?

6 A The day I filed the human resource complaint is the day  
7 he actually quit.

8 Q Do you know where he went after he quit?

9 A He made arrangements to go to Egypt.

10 Q And do you know what interest he had in Egypt?

11 A His wife was in Egypt.

12 MR. NITZE: May I have just a moment, your Honor?

13 THE COURT: Sure.

14 MR. NITZE: Nothing further.

15 THE COURT: Cross-examination.

16 MR. TAYLOR: Yes, your Honor.

17 CROSS-EXAMINATION

18 BY MR. CREIZMAN:

19 Q Can you see me?

20 A Yes, sir, I can.

21 Q It's not made for people my size. We can agree that you  
22 worked very closely --

23 THE COURT: Mr. Creizman, just introduce yourself  
24 and who you represent.

25 MR. CREIZMAN: Yes.

Street - Cross - Creizman

1 BY MR. CREIZMAN:

2 Q My name is Eric Creizman. I represent Tairod Pugh, along  
3 with Zachary Taylor.

4 A Okay.

5 Q Good afternoon.

6 A Thank you, sir. Good afternoon to you, too.

7 Q We can agree that you worked closely with Mr. Pugh in  
8 Dubai?

9 A Yes, sir. We worked the same shift together.

10 Q And it was about 40 days?

11 A Approximately 40 days, yes.

12 Q And it was the cargo station of Kalitta in Dubai; right?

13 A We had airplanes that we'd fly cargo in and out of Dubai,  
14 yes.

15 Q These were important missions, yes?

16 A Yes, sir.

17 Q Because you delivered goods and materials to military  
18 bases, yes?

19 A We would ship up supplies, yes, and then bring equipment  
20 back.

21 Q And these were risky missions in some ways?

22 A I wouldn't consider them risky; I would consider them  
23 normal flying, even though we were flying into a war zone, but  
24 the bases were very protected.

25 Q You were flying into a war zone when your airline flew

Street - Cross - Creizman

1 out there?

2 A The aircraft were, yes.

3 Q But you're not a pilot; right?

4 A I am not a pilot.

5 Q Now, the station in Dubai was small; right? Three or

6 four people?

7 A We would have four people there at one time, yes, sir.

8 Q And you spent the night shift with Mr. Pugh?

9 A Yes, sir. We would work the night shift together.

10 Q And it was in a small many room?

11 A The facility we had had a place we can store parts, and

12 then we had a bathroom, a shower, and then we had a small

13 little kitchen. And then the room where the office was, was

14 small, yes.

15 Q And you talked to him during those night shifts?

16 A Yes, sir, we would talk.

17 Q And he talked to you?

18 A Yes, sir, we would talk often.

19 Q And he shared a lot about his personal life with you?

20 A He shared some of his personal life with me, yes.

21 Q And political views?

22 A Some of the stuff that he would show would be -- he'd

23 show some videos that he had on his phone. Stuff like that.

24 Q He shared his political views with you?

25 A Yes.

Street - Cross - Creizman

1 Q And he wasn't shy about it?

2 A No.

3 Q He spent a lot of time on Facebook?

4 A Yes.

5 Q And he didn't hide from you what he was looking at?

6 A No, sir.

7 Q Now, Mr. Pugh was a pretty outspoken guy in the Dubai

8 office, fair to say?

9 A Sometimes he would be outspoken; sometimes he'd be quiet.

10 Some days he would talk more than others.

11 Q But it was a small office; everyone knew each other

12 pretty well?

13 A Yes.

14 Q And can we agree that Mr. Pugh had difficulty separating

15 his personal life from his work life?

16 A I don't understand what you're saying.

17 Q Well, he would -- on work hours, he would often talk

18 about his personal life or his political views?

19 A He would talk about his personal life at work, yes.

20 Q And his political views?

21 A Yes.

22 Q Now, before you went to the Dubai office, you met him

23 once?

24 A Yes, sir.

25 Q And that was basically for a day?

Street - Cross - Creizman

1 A It was basically for about an hour, just as a quick, hey,  
2 here's tools you might need to take over with you that they  
3 don't have there, stuff like that.

4 Q And that was about a year before?

5 A I would say probably -- yeah, less than a year, but --

6 Q And is that when Mr. Pugh started working at Kalitta?

7 A I believe he worked there before that, but I worked on  
8 the day shift, and he worked on the night shift.

9 Q But after that day, your understanding is he went to  
10 Dubai?

11 A Yes, sir. That was right before he went to Dubai.

12 Q Now, I want to ask you some questions about his political  
13 views; do you understand?

14 A I do understand.

15 Q He told you that he thought Israel was mistreating the  
16 Palestinians?

17 MR. NITZE: Objection.

18 THE COURT: Sustained.

19 BY MR. CREIZMAN:

20 Q He watched videos of Palestinian children who were  
21 injured in bombings?

22 A Yes, sir.

23 Q And he told you that those bombings were from Israel,  
24 yes?

25 MR. NITZE: Objection.

Street - Cross - Creizman

1                   THE COURT: You may answer.

2                   THE WITNESS: Yes, sir. He said they were from  
3 Israel.

4 BY MR. CREIZMAN:

5 Q     He seemed bothered by it?

6 A     Did I seem bothered?

7 Q     No, Mr. Pugh seem bothered by it?

8 A     He was bothered -- he seemed bothered by it, yes.

9 Q     He expressed that he was upset about it?

10 A    He felt -- I'm trying to think of what he -- he said that  
11 these would upset him, yes.

12 Q    The videos were graphic?

13 A    These were still pictures.

14 Q    And the pictures were graphic?

15 A    Very, yes.

16 Q    And that bothered you?

17 A    Yes, sir.

18 Q    And you didn't want to deal with this while you were at  
19 work?

20 A    I asked him not to look at them while I was at work  
21 because it bothered me.

22 Q    And you didn't want to deal with it because those graphic  
23 images bothered you?

24 A    Yes. I didn't want them at work while I was -- they  
25 bothered me, yes.

Street - Cross - Creizman

1 Q So you put in a complaint?

2 A First I mentioned to Mr. Pugh that this bothered me, to  
3 not view this, and then I filed a complaint.

4 Q And you escalated it?

5 A Yes, sir, because it continued on.

6 Q Now, you said that Mr. Pugh supported sort of terrorist  
7 organizations; is that what you said?

8 A I don't believe I said that at all.

9 Q Did he support terrorist organizations?

10 A I don't know, sir.

11 Q Did he ever express that he supported Hamas?

12 A Not to me.

13 Q Did he ever say that he thought that Palestinians had a  
14 right to take their land back?

15 A I don't know if he -- he never said that to me in  
16 specific, but I think he believed that, as my opinion.

17 Q He never told you, though, that he was a member of any  
18 terrorist organization?

19 A He never mention that he was a member of any terrorist  
20 group.

21 Q He never said that he planned to join Hamas?

22 A No, sir.

23 Q Never talked to you about ISIS?

24 A No, sir.

25 Q And never said he was a member of ISIS?

Street - Cross - Creizman

1 A No, sir.

2 Q Never said that he planned to become a jihadi?

3 A No, sir, not to me.

4 Q I want to ask you some questions about the way the office  
5 was structured and the hierarchy at Kalitta?

6 A Okay.

7 Q The station manager at the time, was that person's name  
8 Scott Campbell?

9 A Yes, sir.

10 Q And you reported to him?

11 A He was there in charge of the station. And then we had a  
12 director of maintenance, and his name was Mark Milph  
13 (phonetic).

14 THE COURT: And where was he?

15 THE WITNESS: Ypsilanti, Michigan.

16 THE COURT: Go ahead. Next question.

17 BY MR. CREIZMAN:

18 Q And Mark Milph was the director, and he was based out of  
19 Ypsilanti, Michigan?

20 A Yes, sir.

21 Q And Mr. Campbell reported to him?

22 A Yes, sir.

23 Q And to your knowledge Mr. Milph put in some policies and  
24 rules that people in the Dubai office had to follow?

25 A Yes. He was the director of maintenance; he made the

1 rules for our station.

2 Q Was one of those rules that any complaints about another  
3 mechanic had to be in writing?

4 A First what I would normally do is if I had a problem with  
5 somebody individually, I would go to them first and give them  
6 the opportunity to say, oh, man, I didn't even know I was  
7 doing that, and correct it right there, before I up-channel it  
8 at all.

9 (Continued on the next page.)

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Street - Cross - Creizman

1 BY MR. CREIZMAN:

2 Q But Mr. Knowles' policy, did you understand that there  
3 was a policy to put complaints in writing?

4 A Yes, for a formal complaint. Yes, you put them in  
5 writing.

6 Q Because he would need them on the record, correct?

7 A Correct.

8 Q Now, if Tairod Pugh had said to you that he wanted to  
9 become a terrorist, you would report that? Yes?

10 A Absolutely.

11 Q And if he told you that he wanted to join ISIS, you would  
12 have reported that?

13 A Yes, sir.

14 Q And that would have been a written complaint? Yes?

15 A Yes, sir.

16 Q If you thought that he posed a danger to your crew, you  
17 would report him? Yes?

18 A Yes, sir.

19 Q You're an Air Force veteran?

20 A Yes, sir.

21 Q Like Mr. Pugh?

22 A Yes, sir.

23 Q And you want to protect our country? Yes?

24 A Yes, sir.

25 Q So you would want to make sure that if Mr. Pugh expressed

Street - Cross - Creizman

1 to you that he wanted to become a terrorist, that this was on  
2 the record? Yes?

3 A I didn't -- you broke up in the middle of it.

4 Q Sir, you would want to put something like that in  
5 writing, so that no other contractor could hire him right?

6 MR. NITZE: Objection; asked and answered.

7 THE COURT: Sustained, and as to form.

8 BY MR. CREIZMAN:

9 Q I want to ask you some questions about the first time you  
10 met Mr. Pugh. Now, that was at Kalitta's facility -- one of  
11 Kalitta's facility in Michigan?

12 A In Iosco, Michigan.

13 Q And it was warm at that time?

14 A No, it was cool.

15 Q It was cool?

16 A Yes, sir.

17 Q You don't recall it being the summer?

18 A No, I met him, it was -- I believe it was October. I'm  
19 sorry. December. I misspoke myself.

20 Q You met him in December?

21 A Yes, sir.

22 Q Okay. And you saw Mr. Pugh wearing a winter cap, isn't  
23 that right?

24 A Yes, sir.

25 Q And underneath that winter cap, you saw he had a Muslim

## Street - Cross - Creizman

1 cap, correct?

2 A Yes, sir, I did.

3 Q And that was something that he observed his -- in

4 accordance with his religion?

5 A Absolutely, sir. Yes.

6 Q Okay. And other than that, he was wearing regular work

7 clothes?

8 A Yes, sir.

9 Q And you asked him about the head covering?

10 A Yes, I did.

11 Q You asked if he was Muslim?

12 A Yes, I did.

13 Q And he told you he was?

14 A Yes, he did.

15 Q And he told you he didn't want to draw attention to

16 himself? Yes?

17 A Correct.

18 Q That's why he covered his head covering with a hat?

19 A Yes, he did say that.

20 Q And you told him that he didn't have to do that at

21 Kalitta, right?

22 A Correct. I did.

23 Q And that no one could discriminate just because of your

24 religion, right?

25 A Yes. We have a policy. We don't discriminate on anybody

Street - Cross - Creizman

1 based on their religion, their race or they're a man or woman.

2 Q And they can wear their religious scarf if they wanted  
3 to?

4 A Yes, as long as it's not a danger to aircraft because  
5 some of the stuff is moving. If you have very loose clothing,  
6 it could get caught in something and hurt and it can kill you.

7 Q And wearing a head covering, though, wouldn't fall into  
8 that category?

9 A No, sir.

10 Q And you told him if anyone would give him a problem about  
11 it to talk to you?

12 A I said he should talk to me or talk to the manager.

13 Q And he thanked you for that?

14 A Yes, sir.

15 Q Now, I want to ask you about when you visited Dubai a  
16 year later. Dubai is a predominantly Muslim country?

17 A Yes, sir.

18 Q And in Dubai, Mr. Pugh wore traditional Muslim clothing?

19 A When he was off of work, he would wear traditional Muslim  
20 clothing. When he was at work, he would wear jeans and work  
21 clothing.

22 Q And outside of work, though, he would wear a long top,  
23 Afghani -- in the Afghanistan sort of tradition?

24 A I don't know where it came from, but it was a longer one  
25 piece top with a head scarf or clothe.

## Street - Cross - Creizman

1 Q And that loose pants?

2 A I don't know what was underneath it, but they're longer.

3 They're almost like a night gown-type style. I don't know

4 what was underneath them, though.

5 Q And would he wear a head scarf, as well?

6 A Yes, sir.

7 Q That's how he would generally arrive at work?

8 A At work? No. He --

9 Q When he arrived at work?

10 A When he arrived at work --

11 Q Yes.

12 A -- to work, we'd ride together in and he was in his work

13 clothes.

14 Q Okay. And then when he came back, he would change?

15 A Yes, sir.

16 Q That's how he would walk around in Dubai?

17 A Yes, sir.

18 Q Mr. Pugh generally didn't work on Fridays?

19 A No. When we worked together, I made sure he had Friday

20 off for his religious beliefs. That way, sometimes it was a

21 point that we had to work because we had something we had to

22 do.

23 Q So because that's the Muslim Sabbath?

24 A Yes, sir.

25 Q And so, he didn't work generally on Fridays?

Street - Cross - Creizman

1 A Most of the time he did not work on Fridays. He would  
2 have Fridays off.

3 Q And even when he did work, he would go to the mosque?

4 A Oh, yes. Yes, sir. We would be working together. If it  
5 got -- you get to know the time of the prayer. There's a call  
6 to prayer. "Hey, man. Why don't you take the van. Go to the  
7 mosque. Do your prayers."

8 Q Now Mr. Pugh told you that he felt freer to practice his  
9 faith in the Middle East? Yes?

10 A Yes, sir.

11 Q And he told you that he felt he was discriminated against  
12 in the United States?

13 MR. NITZE: Objection.

14 THE COURT: Sustained.

15 BY MR. CREIZMAN:

16 Q You mentioned Mr. Pugh's wife.

17 A Yes, sir.

18 Q Okay. She was Egyptian, you said?

19 A She lived in Egypt. I don't know exactly where she was  
20 from.

21 Q And Mr. Pugh visited her?

22 A Yes, sir.

23 Q You understand -- you ever have any understanding of what  
24 kind of marriage it was, how they got married?

25 A He informed me that I believe it was a friend of his or a

Street - Cross - Creizman

1 family member had arranged the marriage for him.

2 Q He showed you pictures of her at work?

3 A Yes, sir.

4 Q Okay. He told you he wanted to move to Egypt?

5 MR. NITZE: Objection.

6 THE COURT: Sustained.

7 MR. CREIZMAN: No further questions.

8 THE COURT: Okay thank you.

9 THE DEFENDANT: Wait, wait, wait.

10 THE COURT: Anything else?

11 MR. CREIZMAN: (No response.)

12 THE COURT: Anything else?

13 MR. CREIZMAN: No, Your Honor.

14 THE COURT: All right. Redirect?

15 MR. NITZE: No, Your Honor.

16 THE COURT: All right. The witness is excused. You  
17 may stand down, sir.

18 THE WITNESS: Thank you, sir.

19 THE COURT: You're very welcome.

20 All right. At this time, we're going to take our  
21 lunch break until 20 after two.

22 All rise for the jury.

23 (Jury exits.)

24 THE COURT: All right. Please be seated for a  
25 moment, everyone.

Street - Cross - Creizman

1 Who is the government's next witness?

2 MS. DEMAS: Your Honor, it's Aamer Aslam.

3 THE COURT: And how long will your direct be?

4 MS. DEMAS: I estimate about 30 to 40 minutes.

5 THE COURT: And then on the -- your cross?

6 MR. CREIZMAN: About the same amount of time.

7 THE COURT: All right. And you have witnesses lined  
8 up after that, until we get to five o'clock today?

9 MS. DEMAS: Right.

10 THE COURT: All right. I just want to make sure  
11 we're going to go until five. All right. Thank you,  
12 everyone. Twenty after two.

13 MR. BINI: Thank you, Your Honor.

14 (Lunch recess.)

15 (Continued on the next page.)

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## PROCEEDINGS

## 1                   A F T E R N O O N    S E S S I O N

2                   (In open court, outside the presence of the jury.)

3                   THE COURT: All right. I'm waiting for the  
4 defendant.

5                   (Defendant enters.)

6                   THE COURT: All right. The defendant is present.

7                   Before we bring the jury in, do you have something, sir?

8                   MR. CREIZMAN: Yes, Your Honor. This goes to the  
9 issue I think that we wanted to brief this evening. And  
10 during the cross-examination of Mr. Street, the Court  
11 sustained a couple of objections to points where I tried to  
12 bring in something that Mr. Pugh may have said to the witness,  
13 and I'm assuming that that was based on hearsay. And the ones  
14 that I can think of specifically, are that Mr. Pugh told  
15 Mr. Street that he felt freer to practice his faith in the  
16 Middle East than in the United States.17                  THE COURT: I think that came out, didn't it? Go  
18 ahead.19                  MR. CREIZMAN: At least I didn't remember. Then I  
20 asked -- I asked if he said that he felt he was discriminated  
21 against in the U. S. because he was Muslim, and I think Your  
22 Honor sustained that objection. And I also asked whether he  
23 had planned to move -- he said -- told him that he wanted to  
24 move to Egypt to live with his wife, and Your Honor sustained  
25 that objection.

## PROCEEDINGS

1                   And I believe that both of those -- both of those  
2 questions are proper because of the -- of the state of mind  
3 exception, especially I think -- well, one was going to the --  
4 saying that he wanted to move to Egypt. I'm not trying to  
5 bring it -- well, I am trying to bring it in for what his  
6 state of mind was at the time, meaning, you know, I think that  
7 without some context here, and I mean, all we're going to have  
8 unless Mr. Pugh testifies -- which he has the right not to --  
9 is things that Mr. Pugh said about jihadi, you know, groups  
10 and so on, and I think that this goes to what his state of  
11 mind was at the time.

12                  The reason he went to the Middle East is not because  
13 he was looking to, you know, join a terror group, but because  
14 he was discriminated against. He felt discriminated against.  
15 I'm not saying that that is a true statement, but that's what  
16 he felt and that goes to his state of mind.

17                  THE COURT: I hear you.

18                  Let me hear from the government.

19                  MR. NITZE: The issue with these statements and some  
20 of the others that I believe the defense will seek to admit,  
21 Facebook posts and so on, is that they are statements of the  
22 defendant and inadmissible hearsay. They're being admitted  
23 for the truth of the matter asserted and as a result, you  
24 know, should the jury accept them as true statements, then the  
25 defense will seek to urge an inference about state of mind.

## PROCEEDINGS

1                   There is an exception for hearsay within the hearsay  
2 rule or exception to the hearsay rule for statements that go  
3 solely to state of mind, but not for statements that go to  
4 mens rea state of mind, which is an element of the offense.

5                   The statement, "I didn't know those were drugs. I  
6 thought it was powdered sugar," or the statement, "I was not  
7 intending to do anything criminal," those types of statements  
8 go to state of mind, but they're inadmissible hearsay because  
9 they're statements made by the defendant out of court,  
10 asserted and introduced for the truth of the matter asserted  
11 therein.

12                  It's difficult for me to go piece-by-piece and  
13 question-by-question, but in general, the government does  
14 intend to object to the introduction of evidence of statements  
15 by the defendant that are admitted for the truth of the matter  
16 asserted.

17                  THE COURT: I'll take a look at that transcript.

18                  MR. CREIZMAN: Okay.

19                  MR. NITZE: And with respect to exhibits, we can  
20 brief that.

21                  THE COURT: And if you need to bring somebody back,  
22 you bring them back.

23                  MR. CREIZMAN: I'm not, I mean --

24                  THE COURT: No, I want to get it right. You  
25 understand?

## PROCEEDINGS

1 MR. CREIZMAN: Yes.

2 THE COURT: You know, but it just seems that they're  
3 being -- eliciting that information is eliciting it not for  
4 his state of mind but for what he intended to do or not do.  
5 And that was -- that's not a state of mind statement. It's a  
6 statement of his plan. But let me look at it.

7 MR. CREIZMAN: Okay.

8 THE COURT: And I'll let you know. Okay?

9 MR. CREIZMAN: Okay.

10 THE COURT: Anything else on that?

11 MR. NITZE: No.

12 THE COURT: But we're going to have more of that, I  
13 take it?

14 MR. NITZE: (Nods head affirmatively.)

15 THE COURT: There are other people who spoke to  
16 Mr. Pugh along the way, right?

17 MR. NITZE: Yes.

18 THE COURT: Well, it depends on, you know, if  
19 there's a foundation for the cross-examination and it's just  
20 the state of mind situation, then it might be appropriate, but  
21 otherwise, I don't think it would be, but I'll check.

22 MR. CREIZMAN: I mean, and just to -- if I may add,  
23 in the case about moving to Egypt to live with his wife, it's  
24 almost -- it's not necessarily that -- to show that he -- that  
25 is what he was going to do. But more than his -- that his

## ASLAM/DIRECT/DEMAS

1 state of mind was, I want to live -- I want a future with my  
2 wife. I want a future in the Middle East. I want a future  
3 being -- living in that society. So that what I'm trying to  
4 --

5 THE COURT: I see. I hear you. All right. Thank  
6 you. Let's call in the jury.

7 Are we playing any audio or video for this witness?

8 MS. DEMAS: No, Your Honor.

9 MR. CREIZMAN: No.

10 (Jury enters.)

11 THE COURT: Please be seated.

12 All right. The government may call its next  
13 witness.

14 MS. DEMAS: Government calls Aamer Aslam.

15 (Witness sworn.)

16 THE CLERK: Please have a seat, and please state and  
17 spell your full name for the record.

18 THE WITNESS: First name is Aamer, A-A-M-E-R. Last  
19 name is Aslam, A-S-L-A-M.

20 THE COURT: You may inquire.

21 DIRECT EXAMINATION

22 BY MS. DEMAS:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Mr. Aslam, are you currently employed?

## ASLAM/DIRECT/DEMAS

1 A Yes, I am.

2 Q Who do you work for?

3 A I work for United Airlines.

4 Q In what capacity?

5 A Flight officer.

6 Q What does that mean?

7 A Pilot.

8 Q That means you fly planes?

9 A Yes.

10 Q Have you always worked for United Airlines?

11 A Not for the past -- I was on leave from United and I

12 worked in the Middle East for five years.

13 Q What was that time period when you were on leave and

14 worked in the Middle East?

15 A From 2011 'til 2015.

16 Q During that time period, from 2011 to 2015, for what

17 company did you work?

18 A For Gryphon.

19 Q What is Gryphon?

20 A It's an airline that was flying some DOD contracts out of

21 Afghanistan and Iraq.

22 Q Where were you based when you worked for Gryphon?

23 A Kuwait City, in Kuwait.

24 Q What was your position at Gryphon when you worked there?

25 A Director of Operations and DD ops.

## ASLAM/DIRECT/DEMAS

1 Q What responsibilities did that title entail?

2 A Mostly commercial, flight planning, aircraft maintenance,  
3 flight operations, dispatch.

4 Q Did you also fly a plane or planes?

5 A Yes, I did.

6 Q Were you responsible for hiring employees at Gryphon  
7 during the time that you worked there from 2011 to 2015?

8 A Yes.

9 Q Are you familiar with a man named Tairod Pugh?

10 A Yes.

11 Q Do you see him in the courtroom today?

12 A Yes, I do.

13 Q Could you please indicate who the defendant is based on  
14 an article of his clothing and where he's sitting?

15 A He's wearing khaki pants and a Navy blue jacket.

16 THE COURT: All right. Let the record indicate that  
17 the witness has identified the defendant.

18 You may proceed.

19 BY MS. DEMAS:

20 Q When did you first come into contact with the defendant?

21 A When I first interviewed him in Kuwait, in my office.

22 Q Was that an in-person interview?

23 A Yes.

24 Q And before you interviewed the defendant in person, had  
25 you had any other sort of contact with him, be it by phone,

## ASLAM/DIRECT/DEMAS

1 email or by some other means, that was not in person?

2 MR. CREIZMAN: Objection.

3 THE COURT: Overruled. You may answer.

4 A Okay. Yes. Via email and by telephone.

5 BY MS. DEMAS:

6 Q Could you explain the email contact with the defendant?

7 A The email was just about the qualifications, the stuff  
8 the defendant -- where he had worked and a copy of his CV  
9 resume.

10 Q I'm sorry. Did you say a CV is a what?

11 A Resume.

12 Q And when approximately did you receive the defendant's  
13 resume?

14 A It was in late July, early August. I would say late July  
15 of 2014.

16 MS. DEMAS: May I approach the witness?

17 THE COURT: Yes, you may.

18 MS. DEMAS: (Handing.)

19 Q Ms. Aslam I've placed before you what's been marked for  
20 identification as Government Exhibit 5. Do you recognize this  
21 document?

22 A Yes, I do.

23 Q What is it?

24 A It's Mr. Pugh's resume.

25 Q Is this the resume that you were just discussing?

## ASLAM/DIRECT/DEMAS

1 A Yes.

2 Q Did you receive it from the defendant by email?

3 A Yes, I did.

4 Q And after receiving that resume from the defendant by  
5 email, was it kept in the regular system of records at  
6 Gryphon?

7 A Yes.

8 Q Is that the normal practice of Gryphon to keep resumes  
9 submitted by job applicants?

10 A Correct.

11 MS. DEMAS: I move Government Exhibit 5 into  
12 evidence.

13 MR. CREIZMAN: No objection.

14 THE COURT: Government Exhibit 5 is received in  
15 evidence.

16 MS. DEMAS: (Retrieves exhibit.)

17 May I use the overhead?

18 THE COURT: Yes, you may.

19 (Exhibit published to the jury.)

20 BY MS. DEMAS:

21 Q Ms. Aslam, do you see the document on the -- on the  
22 camera in front of you?

23 A Yes, I do.

24 Q Could you please -- now, did you review this resume when  
25 you received it from the defendant?

## ASLAM/DIRECT/DEMAS

1 A Yes, I did.

2 Q And did he seem to have the qualifications that you were  
3 looking for, based on his resume?

4 A Yes.

5 Q Can you read the overall work experience, what it says on  
6 this resume?

7 A Eighteen years Contract Maintenance. Twelve-plus years  
8 FAR Part 145 Repair Stations-MRO (C&D Checks on Boeing 737,  
9 Boeing 747, 757, 767, 777, DC10, MD80, DC9.

10 Eight years manufacturing (Gulfstream, UH60s,  
11 Alpha-Whiskey 139, Charlie-Hotel 47 and Boeing 787.

12 Seven years line maintenance work (A-10s, Warthog,  
13 KC135, C130, Fokkers and MD80.

14 Four years Rotorcraft experience on CH-47, S92s and  
15 A139s.

16 Four-plus QC Inspection (Boeing 787, 747, MD80,  
17 DC8s).

18 Q Did it appear to you from the defendant's resume that he  
19 had worked on a wide array of airplanes or just one specific  
20 type?

21 A Yes, he has -- he had the experience and it shows  
22 commercial, corporate and military aircraft.

23 Q And looking at the first profession -- line under  
24 professional experience on the resume. Can you read the end  
25 date of the most recent employment on the resume that you

## ASLAM/DIRECT/DEMAS

1 received from the defendant?

2 A Yes. It's 08-14.

3 Q Switching to page two of the resume, can you read the  
4 section that says "conclusion"?

5 A "There's really nothing I've done" --

6 THE COURT: No, no. I'm sorry. Read that again.

7 A "There's really nothing I have not done with an Aircraft.  
8 From working the flight line for A-10s to manufacturing  
9 AW139s, UH-60. From manufacturing corporate Aircraft  
10 (Goldstream V) to C&D checks of Cargo Carriers, DC8s, I'm  
11 always challenging myself."

12 Q Thank you.

13 A You're welcome.

14 Q Now, Ms. Aslam, you had also mentioned that before you  
15 interviewed the defendant in person, you had a phone  
16 conversation with him, is that correct?

17 A I believe so, but I can't recall the conversation that I  
18 had with him.

19 Q Okay. Do you recall how you learned of the defendant's  
20 existence?

21 A Yes. I knew a gentleman at -- working at Kuwait  
22 International Airport, an American citizen who was a director  
23 of maintenance for another company, and his name is Mr. Otto  
24 and he recommended Mr. Pugh to me.

25 Q Now, after you received the resume that we were just

## ASLAM/DIRECT/DEMAS

1 discussing from the defendant, did you interview him in  
2 person?

3 A Yes, I did.

4 Q When was that?

5 A That was late July or early August. I can't recall the  
6 exact date.

7 Q Of what year?

8 A 2014.

9 Q Where did that interview take place?

10 A In my office in Kuwait City, Kuwait.

11 Q When you interviewed the defendant, do you recall how he  
12 was dressed?

13 A Yeah, in western clothing.

14 Q During the interview, did you discuss the defendant's  
15 qualifications with him?

16 A Yes, I did.

17 Q What, if anything, did he tell you?

18 A He basically gave me a review of his resume, the type of  
19 work he has performed working on military aircraft to  
20 corporate airplanes and commercial aircraft. So he had the  
21 experience to work on the corporate aircraft that we were  
22 looking to hire a mechanic for.

23 Q And by the way, what job was he applying for?

24 A For aircraft mechanic.

25 Q Did you find out from the defendant if he had any

## ASLAM/DIRECT/DEMAS

1 specific certifications that were necessary to do the job?

2 A Yes. We were looking for someone with the Federal  
3 Aviation Regulation license, and he had the right  
4 qualifications and the license to work on the aircraft.

5 MS. DEMAS: May I approach?

6 THE COURT: Yes, you may.

7 BY MS. DEMAS:

8 Q (Handing.) Mr. Aslam, I have put before you what's been  
9 marked for identification as Government Exhibit 3. Do you  
10 recognize this?

11 A Yes, I do.

12 Q What is it?

13 A This is the FAA license for -- to work on the aircraft  
14 from Mr. Pugh.

15 Q Is that an official document?

16 A Yes.

17 Q Is it issued by an official government agency?

18 A Correct.

19 Q What agency is that?

20 A United States of America FAA, Federal Aviation  
21 regulations.

22 Q That is a copy of what the defendant showed you?

23 A Yes. He had a license with them, issued by the FAA.

24 MS. DEMAS: Government moves Exhibit 3 into  
25 evidence.

## ASLAM/DIRECT/DEMAS

1 MR. CREIZMAN: No objection.

2 THE COURT: Government Exhibit 3 is received in  
3 evidence.

4 BY MS. DEMAS:

5 Q (Retrieves exhibit.) Ms. Aslam, is there an issue date on  
6 this document?

7 A Correct. It's 19 September. I believe it's 2013.

8 THE COURT: Circle it on the screen. Can you circle  
9 it on the screen?

10 THE WITNESS: (Complies.)

11 THE COURT: Okay. Thank you.

12 BY MS. DEMAS:

13 Q Does the defendant's name appear on this certification  
14 anywhere? And if so, could you circle it?

15 A Yes. (Complies.)

16 Q Thank you. Does this certification indicate what the  
17 defendant was certified to do by the FAA?

18 A Yes, mechanic, airplane powerplant.

19 Q Can you circle that?

20 A (Complies.)

21 Q Thank you.

22 A You're welcome.

23 Q When the defendant interviewed with you at Gryphon in  
24 Kuwait -- by the way, what part of Kuwait did that happen,  
25 what city?

## ASLAM/DIRECT/DEMAS

1 A Al-Wali, Kuwait City.

2 Q Did the defendant fill out any sort of application at any  
3 point during the interview?

4 A Yes. After the interview, I called the HR  
5 representative, and he filled out the company application.

6 Q (Handing.) Mr. Aslam, I have placed before you what's  
7 been marked as Government Exhibit 6. Do you recognize that  
8 document?

9 A Yes, I do.

10 Q What is it?

11 A This is a job application form.

12 Q Can you tell who it was filled out by?

13 A Mr. Pugh.

14 Q Is Mr. Pugh's signature on that document?

15 A (Peruses document.) Yes.

16 Q Is there a date on the document?

17 A Twenty-six August 2014.

18 Q Was that document kept by Gryphon in the normal course of  
19 business?

20 A Correct.

21 MS. DEMAS: I move Government Exhibit 6 into  
22 evidence.

23 MR. CREIZMAN: No objection.

24 THE COURT: Government Exhibit 6 is received in  
25 evidence.

## ASLAM/DIRECT/DEMAS

1 (Exhibit published to the jury.)

2 BY MS. DEMAS:

3 Q (Retrieves document.) Mr. Aslam, can you see this  
4 document, Government Exhibit 6 on the screen in front of you?

5 A Yes, I can.

6 Q Directing you to the top portion of this document, is  
7 there an email address that's written on this document?

8 A Yes.

9 Q What is it?

10 A It's tairodpugh@yahoo.com.

11 Q Did the defendant list a salary that he expected to  
12 receive at Gryphon on this job application?

13 A Yes.

14 Q Can you show where that is by circling it on the screen?

15 A (Complies.)

16 Q And did the defendant list the job for which he was  
17 applying on this application form?

18 A (Peruses document.)

19 Q Do you see the box that says "position applying," right  
20 underneath it?

21 A Oh, yeah. I'm sorry. Yes, I do.

22 Q What position was he applying for?

23 A Engineer, which is an aircraft mechanic.

24 Q Does this document indicate whether the defendant filled  
25 it out?

ASLAM/DIRECT/DEMAS

1 A Yes.

2 Q When was that?

3 A Twenty-six August, 2014.

4 Q Is that the date the defendant interviewed with you?

5 A Yes.

6 Q Did you hire the defendant for that airplane mechanic job

7 at Gryphon?

8 A Yes, I did.

9 Q When did you formally hire him?

10 A The same day.

11 Q What were his job responsibilities?

12 A DHS on the aircraft, and if anything is broken and fix

13 it, and make sure the aircraft stays airworthy.

14 Q What kind of aircraft did Gryphon have in its fleet at

15 that time the defendant received the job of airplane mechanic?

16 A Hawker Siddeley 800.

17 Q Could you explain to the jury what that is?

18 A It's an eight-seat corporate jet.

19 Q Approximately how long did the defendant work for

20 Gryphon?

21 A I would say maybe for two, two and-a-half months.

22 Q Until what month?

23 A Mid-December, I think, when he was let go.

24 Q Of what year?

25 A 2014.

LISA SCHMID, CCR, RMR

## ASLAM/DIRECT/DEMAS

1 Q When the defendant was hired by Gryphon, did he sign any  
2 sort of employment contract?

3 A Yes, he did.

4 Q (Handing.) Mr. Aslam, I put before you what's been marked  
5 as Government Exhibit 7. Do you recognize that?

6 A Yes.

7 Q What is it?

8 A An employment contract.

9 Q For what company?

10 A For Gryphon.

11 Q Is the defendant's signature anywhere on that document?

12 A Yes.

13 Q And was that employment contract made in the normal  
14 course of Gryphon's business?

15 A Yes.

16 Q Was it maintained in a normal system of reports at  
17 Gryphon?

18 A Yes.

19 MS. DEMAS: Government moves Exhibit 7 into  
20 evidence.

21 MR. CREIZMAN: No objection.

22 THE COURT: Government Exhibit 7 is received in  
23 evidence. You may publish it.

24 (Exhibit published to the jury.)

25

## ASLAM/DIRECT/DEMAS

1 BY MS. DEMAS:

2 Q Does this document, Mr. Aslam, list the salary that  
3 Mr. Pugh was paid as a mechanic at Gryphon?

4 A Yes.

5 Q What was the salary?

6 A 4,000 U. S. dollars per month.

7 Q On what date was this employment contract signed, excuse  
8 me?

9 A 31st August 2014.

10 MS. DEMAS: May I publish a document on the overhead  
11 to the witness only?

12 THE COURT: (Nods head affirmatively.)

13 BY MS. DEMAS:

14 Q Do you see the document on the screen in front of you?  
15 (Exhibit published to the witness.)

16 A Yes.

17 Q Do you recognize that?

18 A Yes.

19 Q What is it?

20 A This is an aircraft we have, that he had to -- Mr. Pugh  
21 had to work on.

22 Q Does this photograph fairly and accurately represent the  
23 Hawker airplane in Gryphon's fleet as it appeared in -- during  
24 the fall 2014?

25 A Yes.

## ASLAM/DIRECT/DEMAS

1 MS. DEMAS: Government moves Exhibit 8 into evidence  
2 and asks to publish it to the jury.

3 MR. CREIZMAN: No objection.

4 THE COURT: All right. Government Exhibit 8 is  
5 received in evidence.

6 (Exhibit published to the jury.)

7 BY MS. DEMAS:

8 Q What part of the airplane does this show, Mr. Aslam?

9 A The mid-section of the aircraft.

10 Q Now, Mr. Aslam, when you -- when the defendant worked at  
11 Gryphon, where were you physically based?

12 A At Kuwait City, Kuwait.

13 Q Where was the defendant based at that time?

14 A Same place, Kuwait City, Kuwait.

15 Q About how frequently would you speak to the defendant  
16 during the time that he worked at Gryphon?

17 A Every few days, just to get the status report on the  
18 aircraft and during staff meetings once a week.

19 Q I'm sorry. I couldn't quite hear you about how  
20 frequently the staff meetings occurred.

21 A Once a week or once every ten days.

22 Q Okay. And where did these staff meetings take place?

23 A In my office in Kuwait.

24 Q I'm sorry?

25 A In my office in Kuwait.

## ASLAM/DIRECT/DEMAS

1 Q About how big was your office in Kuwait?

2 A It was about a ten-by-ten room.

3 Q During these staff meetings, could you see the faces of  
4 all the people present?

5 A Yes.

6 Q During the time that the defendant worked at Gryphon, did  
7 he ever talk about any terrorist organization?

8 A Yes, he did.

9 Q Could you explain that, please?

10 A This is during the time when the first American got  
11 beheaded and of course, it was big news in Kuwait. And after  
12 we discussed business, the subject came up and we were all  
13 very upset about that. And Mr. Pugh made a comment that every  
14 group has a right to defend themselves. And I challenged him  
15 on that statement. And he said it's true because it's written  
16 in the Qur'an that you can do that. And I challenged him  
17 again and I said, "I would like to see that, where it's  
18 written." He was not able to produce that for me.

19 Q When you testified -- and correct me if I'm repeating  
20 this correctly -- "Every group has a right to defend itself."  
21 Who did you understand the defendant to be talking about when  
22 he said group?

23 A We were talking about ISIS.

24 Q Could I ask you to sort of lean back from the microphone  
25 a little bit?

ASLAM/DIRECT/DEMAS

1 A Yes.

2 Q Okay. Thank you.

3 Was that the only time the defendant mentioned ISIS  
4 when he worked at Gryphon?

5 A No, there was another time.

6 Q Could you explain that, please?

7 A (Pausing.) I just a need a couple seconds to think about  
8 the full conversation.

9 Q Sure. Well, did the defendant ever make a comment about  
10 ISIS offering to hire anyone?

11 A Yes. I'm sorry. It just slipped through my mind. Yes,  
12 this was after another staff meeting that the defendant  
13 brought this point. He said he saw an ad in the paper, in the  
14 local paper, that ISIS was looking for pilots and mechanics,  
15 and they are paying big salaries. And I challenged him and I  
16 said, which newspaper because there's no way the Kuwait  
17 government would allow that. And he said he saw that ad in a  
18 paper. Again, I asked him, challenged him to show me that ad,  
19 and he did not show it to me.

20 Q Could you see the defendant's face when he made that  
21 comment that he had read that ISIS was hiring airplane  
22 mechanics and --

23 A Yes.

24 Q How did he appear?

25 A Yes.

LISA SCHMID, CCR, RMR

## ASLAM/DIRECT/DEMAS

1 Q How did he appear?

2 A Pretty serious.

3 Q And you mentioned earlier that you terminated the  
4 defendant's employment with Gryphon, is that correct?

5 A Yes.

6 Q When did that happen?

7 A That was sometime in mid-December 2014.

8 Q Why did you terminate the defendant's employment with  
9 Gryphon?

10 A Well, there's a protocol in our company that if we send  
11 an email to an individual, you're supposed to keep that email  
12 to yourself. There was an email that I sent to him not to buy  
13 certain parts from a certain aircraft supplier, and he  
14 forwarded my email to that supplier, telling them that it's my  
15 decision not to buy parts from them and that was not the  
16 intent. The intent was to just let Mr. Pugh know that we  
17 would like to keep that aircraft supplier on the list, but we  
18 will not be buying any parts from them because they're not  
19 reliable and their parts are expensive.

20 Q Let me just make sure I understand what you said. Who  
21 forwarded whose email to a third party?

22 A Mr. Pugh forwarded my email that was intended for him.

23 Q Did you want Mr. Pugh to forward that email to a third  
24 party?

25 A No.

## ASLAM/DIRECT/DEMAS

1 Q Did the email that he forwarded have disparaging  
2 information about that third party in it?

3 A Yes.

4 Q So once you found out that the defendant had forwarded  
5 that email, what did you do?

6 A I asked him why he did that and he said that was my  
7 decision, so that's what why he did it. Basically, he was  
8 trying to point it to me that it was my decision -- and again,  
9 my challenge was, why would you forward my email to someone  
10 that I did not want them to see? If I wanted them to see the  
11 email, I would have CC'd them on the email, but apparently, he  
12 said he was fine. He said it was okay to do that, in his  
13 mind.

14 Q Did you speak to the defendant in person that day, the  
15 day of the forwarded email?

16 A No. Actually, we -- I was in Jujube, Africa, so we just  
17 exchanged some emails and I told him that I will see him when  
18 I land in Kuwait.

19 Q Did you see the defendant when you landed in Kuwait?

20 A Yes.

21 Q Could you explain what happened?

22 A I asked the defendant to join me in the VIP lounge so we  
23 could discuss this. And he stood his ground and didn't want  
24 to admit that he did something wrong. So during our  
25 conversation, he became very aggressive and mad. When I was

## ASLAM/DIRECT/DEMAS

1 trying to explain the situation that we're not supposed to do  
2 something like this, but he had no remorse about that. And  
3 that's -- when I saw that attitude, that's when I told him  
4 that it's time for you to go. Please hand in your badge and  
5 the aircraft key.

6 Q What badge were you referring to?

7 A The airport access badge.

8 MS. DEMAS: May I publish to the witness only?

9 THE COURT: One moment.

10 BY MS. DEMAS:

11 Q Mr. Aslam, I put what's been marked as Government Exhibit  
12 6 on the screen. (Exhibit published to the witness.)

13 THE COURT: Two.

14 BY MS. DEMAS:

15 Q Two. On the screen before you. Do you see that?

16 A Yes, I do.

17 Q Do you recognize that document?

18 A Yes.

19 Q What is it?

20 A That's Mr. Pugh's badge.

21 Q Is that the same badge you were just discussing?

22 A Yeah. This is part of the badge. The other badge was  
23 the Kuwait Airport access badge.

24 Q Does this document have the defendant's signature on it?

25 A Yes.

ASLAM/DIRECT/DEMAS

1 MS. DEMAS: The government moves Government Exhibit  
2 into evidence.

3 MR. CREIZMAN: No objection.

4 THE COURT: All right. Government Exhibit 2 is  
5 received in evidence, and published to the jury.

6 (Exhibit published to the jury.)

7 BY MS. DEMAS:

8 Q Was it your intention before you met with the defendant  
9 that evening in December to fire him before you actually saw  
10 him?

11 A I discussed that with the chairman of the company. He  
12 just happened to be with me in Africa. I discussed it with  
13 him, and he decided that it's time to let him go.

14 Q How did the defendant react when you told him that he had  
15 been fired?

16 A He was very upset.

17 Q What if anything did he do?

18 A Again, when I asked him for the aircraft keys and the  
19 spare parts, he said, "I don't have the keys to the airplane.  
20 I don't have the spare parts with me." And the keys and the  
21 spare parts are in his apartment.

22 So I asked him, the defendant, let's go back to the  
23 apartment so we can collect the parts and the keys, but he  
24 didn't give me any chance. He just took a taxi, went to the  
25 apartment and collected those parts and when I got there, he

## ASLAM/DIRECT/DEMAS

1 had already left.

2 (Continued on the next page.)

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## ASLAM/DIRECT/DEMAS

1 (In open court.)

2 DIRECT EXAMINATION

3 BY MS. DEMAS (continuing):

4 Q What parts are you talking about?

5 A It was aircraft radio and a flight management system.

6 Q Do you know why the defendant had those parts?

7 A Well, he -- he replaced the radio and flight management  
8 system on the airplanes. So there was some issues with the  
9 display on these two instruments, so he kept them in the  
10 apartment instead of keeping them in the office.

11 Q Where are the parts supposed to be kept?

12 A In the office.

13 Q Do you recall the approximate value of these two pieces  
14 of equipment?

15 A Roughly, I would say about 50,000.

16 Q You mentioned the acronym FMS.

17 What does that stand for?

18 A Flight management system.

19 Q What is that?

20 A This is something that you can program any coordinates  
21 anywhere in the world or in the region to fly to those  
22 coordinates, latitude and longitude.

23 Q Is FMS something that goes into an airplane?

24 A Yes.

25 Q Is it compatible with many different types of airplanes?

ASLAM/DIRECT/DEMAS

1 A Yes.

2 Q Does the FMS system that the defendant had at his  
3 apartment, was it working?

4 A It was working, but he had an issue with the display. So  
5 I wanted to send that for service. So this -- again, those  
6 parts are supposed to be in the office but they were not.

7 Q You also mentioned a radio.

8 Can you explain what that radio does?

9 A The radio is used for communication, ground to air  
10 communications.

11 Q Was the radio that the defendant had also in working  
12 condition?

13 A It was working, but it had an issue with the display.

14 Q Did you eventually get those two parts back from the  
15 defendant, the flight management system and the radio?

16 A Yes. Several hours later, after negotiating with  
17 Mr. Otto, Mr. Pugh brought those parts back to the apartment.

18

19 Q Do you recall how defendant was paid when he worked for  
20 Gryphon?

21 A I believe he was paid cash.

22 Q Do you know why he was paid in cash?

23 A Because he did not have a residence in Kuwait, and in  
24 order to get a check you have to have the residency.

25 MS. DEMAS: May I publish to the witness only?

## ASLAM/DIRECT/DEMAS

1                   THE COURT: One moment. All right.

2   Q    Do you see what's on the screen in front of you?

3   A    Yes.

4   Q    Do you recognize this document?

5   A    Yes.

6   Q    I'm going to show you the other pages.

7                   Would you explain what this document is?

8   A    Yes, the final settlement for Mr. Pugh.

9   Q    Was this document kept in the regular system of records  
10   at Gryphon?

11   A    Yes.

12   Q    Was it made in the normal course of Gryphon's business?

13   A    Yes.

14   Q    I'm going to show you another document and ask you a  
15   number of questions about it.

16                   Government Exhibit 10, do you recognize this  
17   document?

18   A    Yes.

19   Q    What is it?

20   A    It's the acknowledgment that Mr. Pugh has received his  
21   last salary and the company does not owe him anything else.

22   Q    Is there a date on that document?

23   A    Yes.

24   Q    What is that?

25   A    December 25, 2014.

ASLAM/DIRECT/DEMAS

1 Q Does the document indicate when the defendant's last day  
2 at Gryphon was?

3 A No. It doesn't show the last day. It just says when it  
4 was signed.

5 MS. DEMAS: The government moves Exhibits 9 and 10  
6 into evidence.

7 MR. CREIZMAN: No objection.

8 THE COURT: Government Exhibits 9 and 10 are  
9 received into evidence. You may publish them to the jury.

10 (Government Exhibits 9 and 10 so marked.)

11 Q Mr. Aslam, I will ask you to -- I'm sorry -- I will ask  
12 you to look at the fourth line down.

13 Can you tell if this document shows when the  
14 defendant's last day at Gryphon was?

15 A Yeah, until 11 December 2014. I see it now.

16 Q Does this final check payment marked as Exhibit 9 reflect  
17 whether or not defendant received his final salary payment  
18 from Gryphon?

19 A Yes. It shows that he received his final salary.

20 Q On what date?

21 A On December 25.

22 Q In what amount?

23 A It's not very clear. Let me see. It's 3,500. Thank  
24 you.

25 Q Was December 11 the date on which you fired the

## ASLAM/DIRECT/DEMAS

1 defendant?

2 A I'm sorry. Can you repeat your question?

3 Q I'm sorry. Was December 11 the date on which you fired  
4 the defendant?

5 A Yes.

6 Q Have you had any contact with him since that time?

7 A No.

8 MS. DEMAS: May I take a moment, your Honor?

9 THE COURT: Yes, you may.

10 (Pause.)

11 Q That flight management system that you mentioned before,  
12 could you explain the size of it, the dimensions?

13 A I believe it's four by four.

14 THE COURT: Four by four what?

15 THE WITNESS: Yes, inches, the face of the screen.

16 Q Is it something that can be carried on a person?

17 A Yeah.

18 Q Would it fit in a bag?

19 A Yes, it would fit in a bag, yes.

20 Q Now, earlier in your testimony you said you asked the  
21 defendant to show you where it said something in the Quran.

22 Did I get that right?

23 A Yes.

24 Q Are you familiar with the Quran?

25 A Yes, I am.

Aslam - Cross/Creizman

1 Q How?

2 A Because I read it.

3 MS. DEMAS: I have no further questions.

4 THE COURT: Oh, I had a question. Regarding the  
5 aircraft keys, did you get those back?

6 THE WITNESS: Yes, sir.

7 THE COURT: When did you get those back?

8 THE WITNESS: At the same time when I got the FMS  
9 and the radio back.

10 THE COURT: How many aircraft do you have in the  
11 fleet for this company?

12 THE WITNESS: At that moment, just one.

13 THE COURT: A demo, meaning it doesn't fly? Or it  
14 does fly?

15 THE WITNESS: It was flying, but it was not flying  
16 as much.

17 THE COURT: I see. Do the same keys work both of  
18 the planes?

19 THE WITNESS: At that time, like I said, we only had  
20 one airplane. So there was only one key.

21 THE COURT: I see. Okay. Thank you.

22 Cross-examination?

23 MR. CREIZMAN: Thank you, your Honor.

24 THE WITNESS: Also, just to clear something, the key  
25 is only for the front door. It's not like a car, that you

1 need the key to start the engines.

2 THE COURT: Right. Once you are in you can start  
3 the engine; is that right?

4 THE WITNESS: Correct, right. Yes.

5 CROSS-EXAMINATION

6 BY MR. CREIZMAN:

7 Q Good afternoon.

8 A Good afternoon.

9 Q My name is Eric Creizman, and I represent Tairod Pugh. I  
10 want to first clear up the issue of the length of time that  
11 Mr. Pugh worked for Gryphon. So I would like to show --

12 MR. CREIZMAN: May I show the defendant -- I'm  
13 sorry. May I show the witness Government Exhibit 7, which is  
14 in evidence?

15 THE COURT: Sure.

16 Q This is the employment contract?

17 A Correct.

18 Q And the date on the employment contract is August 31,  
19 2014, do you see, at the top left?

20 A Yes.

21 Q Is that fair to say, that was the first day that Mr. Pugh  
22 was employed?

23 A Not necessarily true. That was the date when the  
24 agreement was signed.

25 Q But it doesn't say -- but you don't know what day he was

1 employed, what day he started?

2 A The date -- this is -- I'm sorry. I take it back. I  
3 misspoke.

4 The date that you see on the agreement is the date  
5 when it was typed.

6 Q Okay.

7 A And the date he signed it is the date he actually signed  
8 the contract.

9 Q Okay. Well, let me turn to the last page of Government  
10 Exhibit 7, and let's take a look at this. Employee's first  
11 day of employment will be on September 1st, 2014.

12 A Correct.

13 Q And you would agree that that was the first date that he  
14 was employed?

15 A Well, he signed the contract. When he signed it, I don't  
16 know when time he signed it, but that's what it officially  
17 said. That was not part of my job. That was HR, who actually  
18 did all that work with him. So they decided that the first  
19 day would be 01st September. So it was something that was  
20 sent by the HR.

21 Q Do you have reason to doubt that September 1st was the  
22 first day that Mr. Pugh started his employment?

23 A Well, the thing is just starting an employment and  
24 signing a contract is not everything. There are certain steps  
25 you have to take before you can go and touch an aircraft.

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1 Q That's fair, but Mr. Pugh's employment, according to this  
2 contract, started on September 1st, yes?

3 A Correct.

4 Q And that's the date, I imagine, his pay began, that it  
5 started for this day, the date that -- from September 1st, he  
6 started to be -- he was an employee of Gryphon Air?

7 MS. DEMAS: Objection. Compound.

8 THE COURT: Is that a question?

9 Q He was an employee of Gryphon Air starting on  
10 September 1st?

11 A I can't answer that question. That's like I said, it was  
12 not my department. So this was something that he signed with  
13 the HR. So it's between him and HR.

14 Q And the December 11 date, where -- that appeared in the  
15 Government Exhibit 10, if you have it handy, because -- you  
16 are certain that December 11, 2014 is the day?

17 A Yeah. That's the day I came back from --

18 THE COURT: Just step back.

19 A That's the day I came back from Djibouti.

20 Q But you hired Mr. Pugh, yes?

21 A Yes.

22 Q So do you have reason to dispute that September 1st was  
23 the first day of his employment?

24 A It's only a matter of a day. I have no idea what time he  
25 signed the contract. I was not there because I was traveling

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1 a lot from Kuwait. There were times that I was not there.

2 Q Okay. That's fair, but if you start -- assuming he  
3 started on September 1st and ended on December 11, that would  
4 be about three and a half months, fair to say?

5 A Sure.

6 Q Okay. Now, the kind of contracts that Gryphon provided  
7 to the Department of Defense, those involved flying military  
8 troops in and out of Iraq, correct?

9 A Correct.

10 Q And in and out of Afghanistan?

11 A Correct.

12 Q And Gryphon also flew civilian contractors in and out of  
13 Iraq and Afghanistan, correct?

14 A Correct.

15 Q And some of these flights involved medical evacuations?

16 A Correct.

17 Q So these were important missions for the Department of  
18 Defense?

19 A At the time when the contract was signed, Gryphon was not  
20 flying a DOD contract.

21 Q At the time the contract was signed, did you fly these  
22 planes, troops in and out of Iraq and Afghanistan?

23 A Yes, but that was before Mr. Tairod was hired.

24 Q You took no flights while Mr. Pugh was there?

25 A I believe if he flew, maybe one mission, but that was not

1 for the DOD.

2 Q He flew or you flew it?

3 A No, we flew.

4 Q So it was one mission that he took during that time  
5 period?

6 A Correct. That was it maybe one or two. I can't really  
7 recall it.

8 Q Maybe two?

9 A Maybe, but it was not for the DOD.

10 Q Those were just --

11 A Civilian. It was a civilian flight.

12 Q They involved civilian contractors?

13 A No civilian contractors. It was a civilian flight, just  
14 for the general public.

15 Q You mean such as getting on a Delta Airlines flight,  
16 something like that, or a U.S. Air flight?

17 A Yeah. That's a completely different regulation.

18 Q Okay. But I'm asking a question here.

19 The flights that Gryphon flew during the time  
20 Mr. Pugh was employed was for the general public, is that what  
21 you are testifying to?

22 A The only mission I believe that was flown when Mr. Pugh  
23 was there was for the ownership, when the owner wanted to fly  
24 on the aircraft, or maybe one medical evacuation. That was  
25 for a civilian, Kuwaiti civilian.

1 Q And so the owner of Gryphon flew on the Gryphon aircraft  
2 while Mr. Pugh was employed?

3 A Correct.

4 Q And a Kuwaiti citizen who needed medical attention flew  
5 on a Gryphon aircraft while Mr. Pugh was employed?

6 A I have to look at the notes. I can't recall. It's been  
7 a long time.

8 Q So there may have been one mission and one flight and  
9 maybe for the owner and then maybe another flight, is that  
10 what you are saying?

11 A Correct, but I'm sure there were at least a couple of  
12 flights and both flights could be for the owner. I can't  
13 really tell you unless I look at the flight logs.

14 Q And you are a pilot, yes?

15 A Correct.

16 Q And you've flown some of those flights?

17 A I was not flying at that time but after Mr. Pugh left,  
18 that's when I started flying.

19 Q While Mr. Pugh was there, there was another pilot, right?

20 A Correct.

21 Q His name was Captain Paul Lewis?

22 A Correct.

23 Q Now, I want to ask you about what Mr. Pugh did for  
24 Gryphon, okay, his responsibilities.

25 A Okay.

1 Q Now, his job was to make sure the airplanes were working  
2 properly, right?

3 A Correct.

4 Q Okay. To make sure that they were safe to fly?

5 A Correct.

6 Q And the owner's life was at stake basically if Mr. Pugh  
7 didn't do his job correctly, right?

8 A You can say that.

9 Q And the answer is yes?

10 A Yes.

11 Q And as a mechanic you had no issue with Mr. Pugh's work,  
12 correct?

13 A No.

14 Q He was a competent mechanic?

15 A Yes.

16 Q And he was reliable?

17 A For the most part, yes.

18 Q As a mechanic he was reliable?

19 A Like I said, we did not have any major issues with the  
20 airplane. So I really didn't get to see his real work with  
21 the aircraft.

22 Q Mr. Pugh signed up for some training while he was there,  
23 do you recall that?

24 A I believe that, yes.

25 Q Do you recall it though?

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1 A Yes.

2 Q He wanted to take a course in, if I'm not mistaken,  
3 Hawker 800, 900 planes?

4 A Yeah, I understand what you are saying, yes.

5 Q And Challenger 604, is that a type of plane? What is  
6 that?

7 A Yes, that's a type aircraft.

8 Q Okay. Now, Mr. Pugh reported to you directly, right?

9 A In Kuwait, correct.

10 Q In Kuwait he reported to you directly?

11 A Yes.

12 Q And we can agree that Mr. Pugh was sometimes a difficult  
13 employee to manage?

14 A Yes.

15 Q Now, at these staff meetings that you talked about, you  
16 said that Mr. Pugh mentioned that every group has a right to  
17 defend itself, right?

18 A Yes.

19 Q And that was in connection with a beheading of an  
20 American citizen?

21 A Correct.

22 Q And that was by ISIS, right?

23 A Correct.

24 Q And he also said that there was an ad in the paper  
25 showing that ISIS was looking for mechanics and pilots?

1 A I never saw the ad.

2 Q But he told you that?

3 A Correct.

4 Q And he -- but you never did see the ad, right?

5 A No.

6 Q He also mentioned, did he not, that he wasn't proud to be  
7 an American citizen? Do you recall that?

8 A Yes.

9 Q And do you recall that Mr. Pugh sometimes got upset when  
10 the topic of the Middle East came up, politics?

11 A I never discussed politics with him.

12 Q You don't remember him saying that, or are you saying he  
13 didn't say that?

14 A You have to be more specific. Which topic are we  
15 discussing here?

16 Q Any time a topic about the Middle East came up at a staff  
17 meeting, about politics in the Middle East, about issues in  
18 the Middle East between terrorist organizations, did Mr. Pugh  
19 get upset?

20 MS. DEMAS: Objection, to form.

21 THE COURT: Sustained on the form.

22 Do you want to break it up.

23 MR. CREIZMAN: Sure.

24 Q Do you recall Mr. Pugh ever getting upset at staff  
25 meetings about issues in the Middle East?

1 A I don't recall that.

2 MR. CREIZMAN: Your Honor, may I show the witness a  
3 document, please?

4 THE COURT: Sure. Do you want to show it on the  
5 ELMO or in person?

6 MR. CREIZMAN: I would like to show it to him in  
7 person.

8 THE COURT: Go ahead.

9 MS. DEMAS: Your Honor, may I look at the document  
10 before he shows the witness.

11 THE COURT: Sure.

12 MR. CREIZMAN: I was about to.

13 Q I want you to --

14 THE COURT: You have to speak up so the jury can  
15 hear you.

16 MR. CREIZMAN: Sure.

17 Q I want you to take a look at the document and just read  
18 it to yourself and let me know when you are done with it.

19 THE COURT: Does it have an identifier, a number?

20 MR. CREIZMAN: It's Government 3500 Exhibit AA-5.  
21 Is that right?

22 THE COURT: All right.

23 MR. NITZE: I didn't see the marking on that  
24 document.

25 MR. CREIZMAN: There is no marking on the document,

1 but that's what I understand it to be.

2 A Okay.

3 Q Now, after reviewing that document, does it refresh your  
4 recollection about whether Mr. Pugh ever expressed that he was  
5 upset about events in the Middle East?

6 A Again, I'm going to tell you exactly what I can recall  
7 and what I remembered. He never expressed any type of anger,  
8 what was going on politically; and, honestly, being an  
9 American living in the Middle East, you really don't get  
10 involved with any local politics. Something that hits the  
11 national news, like ISIS, everybody knows, but when it comes  
12 to just the local politics in any country, being an American  
13 you don't get involved.

14 Q How about Palestine, do you remember him ever discussing  
15 Palestinians and Israelis at staff meetings?

16 A You know, Palestinians and Israelis are on television  
17 almost every day in the Middle East.

18 Q I understand that.

19 A So but I can't recall a particular conversation unless --

20 Q You don't recall any conversation, that's all I'm asking.

21 A Yeah. I just don't remember the conversation. I have  
22 had that conversation probably with a ton of people, living in  
23 the Middle East for five years and watching that on TV, but I  
24 cannot recall that one instance that you are trying to bring  
25 up.

1 Q I'm not trying to bring anything up. I'm merely asking  
2 whether he raised any of these issues with you at a staff  
3 meeting.

4 A I can't recall it. I'm sorry.

5 Q Now, you talked about when you fired Mr. Pugh in  
6 December, right?

7 A Yes.

8 Q And that was for insubordination, fair to say?

9 A Yes, correct.

10 Q He wanted to order a part from a supplier; isn't that  
11 right?

12 A You got to tell me the whole thing.

13 Q Well, didn't this dispute come about, Mr. Pugh wanted to  
14 order a part from a particular supplier?

15 A I don't think so.

16 Q Well, you told Mr. Pugh that he couldn't, that he  
17 couldn't order from a particular supplier, correct?

18 A Not -- no, I didn't tell him that he couldn't order it.

19 You have to understand the whole thing. He had a list of  
20 about three or four suppliers; and any time we needed a part,  
21 his job was to send an e-mail with the part number to all the  
22 suppliers and get the best price and the express delivery.

23 Q And you wanted Mr. Pugh to tell that supplier that he  
24 wouldn't purchase from him anymore, that Gryphon wouldn't be  
25 purchasing from them anymore?

1 A Not a true statement. I have told Mr. Pugh that we are  
2 not going to get the part from this supplier because his parts  
3 are always more expensive; but I did not want to like tell  
4 this to the supplier, that we are not going to be ordering  
5 parts from them, but I still want to keep them because every  
6 once in a while the prices on the parts were good with this  
7 particular supplier.

8 Q So you told -- you didn't tell Mr. Pugh to do anything,  
9 is that what you are saying?

10 A Well, this was only for Mr. Pugh, that I told him with  
11 that particular part that we are not going to order from this  
12 supplier, from this particular supplier, correct.

13 Q And you were upset that Mr. Pugh forwarded that -- an  
14 e-mail from you regarding that supplier to the supplier,  
15 correct?

16 A Correct.

17 Q All right. And do you recall telling Mr. Pugh, do I need  
18 to teach you discipline? Do you recall telling him that?

19 A Yes. I actually put that in the e-mail.

20 Q And that was an e-mail that you sent to Mr. Pugh when you  
21 were in Africa, correct?

22 A Correct.

23 Q Mr. Pugh responded to your e-mail?

24 A Yes.

25 Q And he disagreed with your -- with what you were saying

Aslam - Cross/Creizman

1 about discipline, correct?

2 A Yes. It was -- basically what I wanted to tell him about  
3 the e-mail discipline, but for some odd reason I was typing it  
4 on a Blackberry and the e-mail did not go through, but it  
5 doesn't matter. Whatever I said is true.

6 MR. CREIZMAN: That's fine. I would like to show  
7 the witness a document, which has been marked Defense  
8 Exhibit A.

9 May I show the witness?

10 THE COURT: Yes, you may.

11 Q I'm going to go -- first of all, let's take a look at the  
12 bottom of the page, if I can do this correctly.

13 This is an e-mail, at the bottom of the page here,  
14 from you to Mr. Pugh?

15 A Correct.

16 Q And that's dated December 11, 2014?

17 A Correct.

18 Q And I'm going to turn it to the next page, and do you not  
19 say in this e-mail, are you serious?

20 THE COURT: Wait, wait, wait, wait. You are going  
21 to read it to him? It's not been admitted.

22 MR. CREIZMAN: I'm sorry.

23 Q This is your e-mail, yes?

24 A Correct.

25 Q And the top of the page, do you see an e-mail from

Aslam - Cross/Creizman

1 Mr. Pugh to Mr. -- to Aamer Aslam. That's you, right?

2 A Yes.

3 Q That's an e-mail you received from Mr. Pugh?

4 A Correct.

5 Q It's dated December 11, 2014?

6 A Correct.

7 MR. CREIZMAN: Your Honor, I would like to move  
8 Defendant's Exhibit A into evidence.

9 MS. DEMAS: No objection.

10 THE COURT: All right. Defense Exhibit A is  
11 received in evidence.

12 (Defendant's Exhibit A so marked.)

13 Q Just now, to go to the second page of this. This is what  
14 you said, if I'm not mistaken, Omar, are you serious?

15 THE COURT: Bring it down on the page, please.

16 MR. CREIZMAN: Sure.

17 Q Omar, are you serious, or do I need to teach you  
18 discipline? Why would you send my e-mail to Hans? See me at  
19 the airport tomorrow night when I return from Djibouti.

20 A Correct.

21 Q This refers to the incident you talked about in your  
22 direct examination, right?

23 A Yes.

24 Q And Mr. Pugh's response -- I'm just going to read the  
25 first two lines -- yes, I will meet you at the airport. What

1 time? One of the things we will discuss is you talking to me  
2 like I am an idiot and a child. I'm just as much a  
3 professional as you.

4 That was Mr. Pugh's response, correct?

5 A Yeah, I can read that.

6 Q Is that correct?

7 A Yes.

8 Q Now, there was a dispute about parts Mr. Pugh kept in his  
9 apartment?

10 A Yes.

11 Q That was an apartment he shared with Captain Paul Lewis?

12 A Unofficially, yes.

13 Q Unofficially, what does that mean?

14 A That apartment was for Captain Lewis only.

15 Q But Mr. -- Captain Lewis let Mr. Pugh live with him?

16 A Yeah, but that's -- that's something that we did not know  
17 about.

18 Q He invited Mr. Pugh to live with him?

19 A You have to ask Captain Lewis.

20 Q But you knew when you were looking for those parts, you  
21 knew to call Captain Lewis, didn't you?

22 A Yes.

23 Q And you knew that because you knew that he was living  
24 with Mr. Pugh, right?

25 A Yes. I found out, but Captain Lewis was with me that

1 night.

2 Q So that day, that night, is the night you found out?

3 A Sometime around that time, but what I'm trying to tell  
4 you is Captain Lewis was with me.

5 Q And you believe that Mr. Pugh and Captain Lewis were  
6 close friends?

7 MS. DEMAS: Objection.

8 THE COURT: Sustained.

9 Q Did you think that they were close friends?

10 MS. DEMAS: Objection.

11 THE COURT: Foundation.

12 MR. CREIZMAN: Foundation.

13 Q You saw Mr. Pugh and Captain Lewis interact with each  
14 other?

15 A You know, when you are working at one place people  
16 interact. I didn't have the social calendar, who he was  
17 interacting with. So, I'm sorry, I can't answer that  
18 question. If they were friends, buddies, I don't know.

19 Q You met with the government -- and when I say "the  
20 government" I mean the prosecution team, agents,  
21 prosecutors -- a number of times before you testified here  
22 today?

23 A Yes.

24 Q And do you ever recall telling them that you believed  
25 that Mr. Pugh and Captain Lewis were close? Do you remember

1 that?

2 A I don't. If you have a recording, that's great, because  
3 I don't remember saying that. If they were friends, everybody  
4 is friends when you are working in one environment. You have  
5 one plane, two pilots, and one mechanic.

6 MR. CREIZMAN: Your Honor, may I show the witness a  
7 document to see if it helps to refresh his recollection?

8 THE COURT: Sure.

9 MR. CREIZMAN: I'm going to show the witness  
10 Government Exhibit 3-3500-AA-3.

11 Q You can feel free to read as much of the document as you  
12 wish, but I'm pointing to page 6 of that document.

13 THE COURT: Just read it to yourself.

14 Q Just read it to yourself and see if it refreshes your  
15 recollection.

16 A I'm sorry. I can't recall it.

17 Q You can't recall saying that?

18 A No.

19 (Continued on the next page.)

20

21

22

23

24

25

## ASLAM/REDIRECT/DEMAS

1 (In open court.)

2 CROSS-EXAMINATION (Continued)

3 BY MR. CREIZMAN:

4 Q Do you know how long -- did you ever learn how long  
5 Mr. -- Captain Lewis and Mr. Pugh lived together?

6 A I can't answer that question. I have no idea.

7 Q Do you know whether it was more than a month, less than a  
8 month?

9 MS. DEMAS: Objection.

10 THE COURT: You may answer.

11 A I can't tell you that. I'm sorry.

12 MR. CREIZMAN: That's okay. Thank you.

13 THE COURT: Okay. Redirect?

14 MS. DEMAS: Briefly, Your Honor.

15 THE COURT: All right.

16 REDIRECT EXAMINATION

17 BY MS. DEMAS:

18 Q Mr. Aslam, do you recall when, approximately, the  
19 defendant made that statement about every group being able to  
20 defend itself, when between September 2014 and December 11th,  
21 2014, when the defendant was fired?

22 A It was around the time when the first American got  
23 beheaded. I can't give you the exact date, but I do remember  
24 the conversation fairly clearly.

25 Q Do you remember the month?

1  
2  
3 A It might have been October.  
4 Q And what about the conversation about ISIS hiring  
5 mechanics, do you remember when, approximately, that happened?  
6 Was it before or after --  
7 A It was after.  
8 Q -- ISIS has the right to defend itself?  
9 A Yes.  
10 Q After that?  
11 A After that.  
12 Q Thank you.  
13 A You're welcome.  
14 MS. DEMAS: No further questions.  
15 THE COURT: Anything else?  
16 MR. CREIZMAN: Can I have one moment, Your Honor?  
17 THE COURT: Sure.  
18 (Pause.)  
19 MR. CREIZMAN: Just briefly.  
20 THE COURT: Go ahead.  
21 RE CROSS-EXAMINATION  
22 BY MR. CREIZMAN:  
23 Q So Mr. Pugh expressed his sympathy towards ISIS in about  
24 around October, right, that's what you just said?  
25 A Yes.

LUEHRS - DIRECT / BINI

1 Q And it wasn't until about two and a half months later  
2 until you fired him?

3

4  
5 A Yeah.

6 MR. CREIZMAN: No further questions.

7 THE COURT: Anything else from the government?

8 MS. DEMAS: No, Your Honor. Thank you.

9 THE COURT: All right. The witness is excused. You  
10 may stand down, sir.

11 THE WITNESS: Thank you.

12 (The witness steps down from the stand.)

13 THE COURT: The government's next witness, about how  
14 long is the direct for this witness?15 MR. BINI: Approximately five to ten minutes, Your  
16 Honor.

17 THE COURT: All right. Call your witness.

18 MR. BINI: The government calls Lynn Luehrs.

19 (Witness sworn.)

20 THE COURT: Please be seated.

21 THE WITNESS: Thank you.

22 THE COURT: Please state and spell your full name  
23 for the record, ma'am.

24 THE WITNESS: Lynn Luehrs, L-y-n-n L-u-e-h-r-s.

25 THE COURT: You may inquire.

## LUEHRS/DIRECT/BINI

1 MR. BINI: Thank you, Your Honor.

2 LYNN LUEHRS, called by the Government, having been first duly  
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BINI:

6 Q Ms. Luehrs, where do you work?

7 A EgyptAir.

8 Q And which office for EgyptAir?

9 A In the New York City Executive Office.

10 Q How long have you worked for EgyptAir?

11 A Thirty-one years.

12 Q What's your title there?

13 A Credit card administrator/senior accountant.

14 Q And over the course of your career, have you worked in  
15 other roles at EgyptAir?

16 A Yes. I've worked as a reservation ticket agent; and I've  
17 worked at Kennedy Airport; and I've worked in sales and  
18 marketing.

19 Q Does EgyptAir keep records regarding tickets sold for its  
20 flights?

21 A Yes, that is correct.

22 Q And do you have access to EgyptAir records regarding  
23 tickets sold for its flights?

24 A Yes, I do.

25 MR. BINI: Your Honor, may I approach to hand up

LUEHRS/DIRECT/BINI

1 Government Exhibit 16 for identification?

2 THE COURT: Yes, you may.

3 MR. BINI: (Handing.)

4 Q Ms. Luehrs, do you recognize Government Exhibit 16 for  
5 identification?

6 A Yes, I do.

7 Q What do you recognize it to be?

8 A This is a passenger name record for a passenger and also  
9 information regarding a ticket.

10 Q Is that passenger Tairod Pugh?

11 A Yes, that is correct.

12 Q And are you familiar with how EgyptAir generates  
13 documents like --

14 A Yes.

15 Q -- the document that is Government's Exhibit 16 for  
16 identification?

17 A On this particular document, the passenger went in to a  
18 travel agent in Cairo, Egypt, called New Year Travel.

19 THE COURT: Excuse me. Just try to answer the  
20 specific question.

21 MR. BINI: Yes, Your Honor.

22 THE COURT: Just ask the question again without  
23 disclosing the information on the exhibit until it's admitted  
24 into evidence.

25 THE WITNESS: Okay.

SHERRY BRYANT, RMR, CRR

LUEHRS/DIRECT/BINI

1                   THE COURT: Okay? Go ahead.

2                   MR. BINI: Thank you, Your Honor.

3   Q    Let me ask you, is this document generated  
4       electronically?

5   A    Yes.

6   Q    And is the information that's in Government Exhibit 16  
7       kept in the regular course of EgyptAir's business?

8   A    Yes, it is.

9   Q    And is it the regular practice of EgyptAir to record the  
10      travel information that is in Government Exhibit 16 for  
11      identification?

12   A    Yes.

13   Q    Is the information in the record saved by EgyptAir at or  
14      near the time that the events take place that are set out in  
15      the record?

16   A    Yes.

17                   MR. BINI: Your Honor, the government moves to  
18      admit Government Exhibit 16 for identification into evidence.

19                   THE COURT: Any objection?

20                   MR. CREIZMAN: No, Your Honor.

21                   THE COURT: Government Exhibit 16 is received in  
22      evidence.

23                   (Government Exhibit 16 received in evidence.)

24                   MR. BINI: May I publish to the jury, Your Honor?

25                   THE COURT: Yes, you may.

SHERRY BRYANT, RMR, CRR

LUEHRS/DIRECT/BINI

1                   MR. BINI: I'm just going to grab that back from  
2 you, Ms. Luehrs, if I can approach again, Your Honor.

3                   (Exhibit published to the jury.)

4                   THE COURT: You'll be able to see it on the screen  
5 right there.

6 Q                I'm going to ask you to look at the first page of  
7 Government Exhibit 16, and I'll ask you to tell us -- guide us  
8 through this document.

9 A                Okay. This is a document that was generated with the  
10 passenger's name of Pugh, P-u-g-h, Tairod, who was traveling  
11 on EgyptAir Flight 737, L class, which is the economy class  
12 section of the aircraft, on the 10th of January from Cairo to  
13 Istanbul, CAI for Cairo, IST for Istanbul. And this ticket  
14 was flown, FLWN.

15 Q               And Cairo, Cairo in what country, if you know?

16 A               In Egypt.

17 Q               And Istanbul?

18 A               Turkey.

19 Q               Okay. And what was the date that this flight was flown  
20 on?

21 A               On the 10th of January.

22                   THE COURT: I'm sorry, let's get the year in here.

23                   THE WITNESS: 2015, Your Honor.

24 Q                What was the date of purchase for this particular ticket?

25 A               This ticket was purchased on the 6th of January 2015.

SHERRY BRYANT, RMR, CRR

LUEHRS/DIRECT/BINI

1 Q And how was this ticket purchased?

2 A This ticket was purchased in cash through a travel agent  
3 called New Year Travel located in Cairo, Egypt.

4 THE COURT: Was this a one-way ticket or a round  
5 trip ticket?

6 THE WITNESS: This is a one-way ticket, Your  
7 Honor.

8 THE COURT: How do you know that?

9 THE WITNESS: This is the only segment that's shown  
10 from -- or the only leg of space from Cairo to Istanbul.

11 THE COURT: Where?

12 THE WITNESS: On number 2, line number 2, okay, only  
13 Cairo to Istanbul is shown.

14 THE COURT: I see. Thank you.

15 THE WITNESS: You're welcome.

16 Q May I ask you was this a refundable ticket?

17 A Yes, it is refundable.

18 Q And how do you know that?

19 A It shows here in line 7 that there is a fee for a  
20 passenger if he wishes to change his reservation. If he wants  
21 to refund, there's a cancellation penalty, and then there is a  
22 no show penalty may apply.

23 Q And does it show what the price of this ticket as it was  
24 purchased on January 6th?

25 A Yes, 1,680 Egyptian pounds.

SHERRY BRYANT, RMR, CRR

LUEHRS/CROSS/CREIZMAN

1 Q Do you know what that would be, approximately, in United  
2 States dollars?

3 A Approximately \$226.

4 Q We spoke about the no show fee. In preparation for your  
5 testimony, did you check what the no show fee would be on a  
6 ticket like this?

7 A Yes. This was 450 Egyptian pounds, which is about 53  
8 United States dollars.

9 Q So for that price, you could have gotten the entire --  
10 the rest of the ticket price back?

11 A Yes, less the \$53 or less the 450 Egyptian pounds off the  
12 1,680 Egyptian pound price.

13 Q And what if you called up beforehand, say the day before  
14 the flight, could you get a refund then?

15 A Yes. There would be a cancellation or penalty charge  
16 for -- or a cancellation penalty for 350 Egyptian pounds,  
17 which is about 42, 43 dollars.

18 MR. BINI: I have no further questions, Your Honor.

19 THE COURT: Cross-examination.

20 MR. CREIZMAN: Yes, Your Honor. Your Honor, may I  
21 show the witness and the jury Government Exhibit 16?

22 THE COURT: Surely. It's in evidence.

23 CROSS-EXAMINATION

24 BY MR. CREIZMAN:

25 Q Good afternoon.

LUEHRS/CROSS/CREIZMAN

1 A Good afternoon.

2 Q My name is Eric Creizman. I represent Mr. Pugh. Does  
3 this document show -- this document shows information only  
4 relating to the purchase of the ticket?

5 A It shows that it was purchased through a travel agent in  
6 Cairo, Egypt.

7 Q Does it show whether the flight actually arrived in  
8 Turkey? Does it show that?

9 A No.

10 Q Does it show whether Mr. Pugh sought a refund or not?

11 A No.

12 Q Would it show if he sought a refund?

13 A Not on this document.

14 MR. CREIZMAN: No further questions.

15 THE COURT: All right. Anything else from the  
16 government?

17 MR. BINI: No, Your Honor.

18 THE COURT: Okay. Thank you for coming in, ma'am.

19 THE WITNESS: You're welcome.

20 THE COURT: Just be careful stepping down.

21 (Witness steps down from the stand.)

22 THE COURT: All right. We're going to take our  
23 10-minute break at this time. All rise for the jury.

24 (Jury exits courtroom.)

25 THE COURT: All right. Take a 10-minute break.

SHERRY BRYANT, RMR, CRR

1 Thank you.

2 (Recess.)

3 THE COURT: All right. Everyone may be seated in  
4 the back. I want a brief sidebar, please.

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## SIDEBAR

1 (Sidebar conference.)

2 THE COURT: Juror number 10, who was number 58, the  
3 one, the juror who indicated she gets five days of her pay,  
4 her office has indicated today is her third day and she has  
5 two more days to go. Of course, she never indicated, as far  
6 as I know, that this would be a particular hardship for her.

7 So all take a look at her questionnaire and tomorrow  
8 let me know what you think, but my general inclination is what  
9 it was when she told us about the five days of pay, that she  
10 did not indicate or articulate a particular hardship that she  
11 would have. And the trial is only going to last up to two  
12 weeks.

13 So my general view of it is that she's going to have  
14 to serve on the jury and that's it. She's had many  
15 opportunities to say that she'd have a major hardship. I'm  
16 happy to hear from you all tomorrow about that.

17 MR. CREIZMAN: Okay.

18 MR. NITZE: Did she mention it by way of updating  
19 the Court or to affirmatively ask that she be --

20 THE COURT: Now she wants to be excused. If you  
21 all agree that she should be struck and we replace her with  
22 alternate number 1, you let me know tomorrow.

23 MR. NITZE: Okay.

24 THE COURT: But if you have any other views, I'll  
25 hear from you tomorrow and then I'll decide what to do.

## SIDEBAR

1 MR. CREIZMAN: Okay.

2 THE COURT: If everyone thinks, since it's not a  
3 very long trial, that excusing her is reasonable under the  
4 circumstances, that's one thing. If there's a disagreement  
5 about it or if you all think that she should remain, then I'll  
6 decide what to do. All right? Okay, thank you.

7 (End of sidebar conference.)

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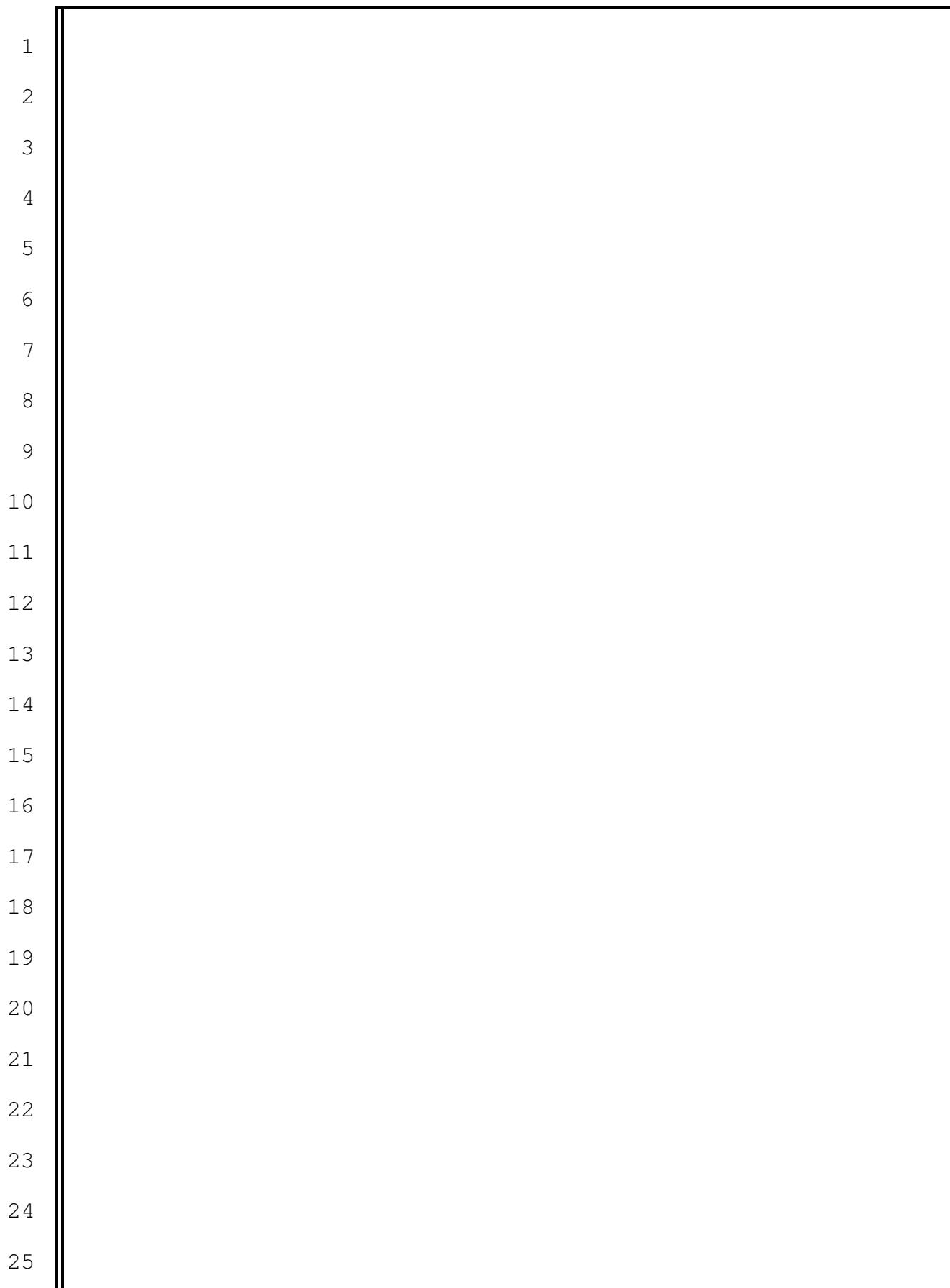
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## PHILLIPS - DIRECT / NITZE



PHILLIPS - DIRECT / NITZE

1 (In open court outside the presence of the jury.)

2 THE COURT: Who's the next witness, please?

3 MR. NITZE: John Phillips. I think we're going to  
4 proceed Phillips, Hickok, Maher, three FBI witnesses.

5 THE COURT: You won't get them all in today, will  
6 you? Or maybe. Are they short?

7 MR. NITZE: Fairly short. It will depend a bit.

8 THE COURT: All right. Well, we're going until 5  
9 today.

10 MR. NITZE: You have a hard stop at 5, is that  
11 right?

12 THE COURT: More or less. I have another matter  
13 that I have to do.

14 (Jury enters courtroom.)

15 THE COURT: You may be seated. All right. The  
16 government may call its next witness.

17 MR. NITZE: Your Honor, the government calls  
18 Special Agent John Phillips of the FBI.

19 (Witness sworn.)

20 COURTROOM DEPUTY: Please have a seat. Please state  
21 and spell your full name for the record.

22 THE WITNESS: My full name is John B. Phillips, III,  
23 spelled John, J-o-h-n, B. as in boy, Phillips,  
24 P-h-i-l-l-i-p-s, and The Third, Roman Numeral III.

25 THE COURT: You may inquire.

SHERRY BRYANT, RMR, CRR

PHILLIPS/DIRECT/NITZE

1 MR. NITZE: Thank you, Your Honor.

2 JOHN B. PHILLIPS, III, called by the Government, having been  
3 first duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. NITZE:

6 Q Good afternoon, Mr. Phillips.

7 A Good afternoon, sir.

8 Q Where do you work?

9 A I work at the United States Embassy in Ankara, Turkey,  
10 for the FBI.

11 Q And what is your title with the FBI?

12 A I'm a supervisory special agent. I'm currently assigned  
13 as the assistant legal attache in Turkey.

14 Q Okay, and where specifically in Turkey are you posted?

15 A I work in Ankara, which is the government capital of  
16 Turkey.

17 Q Okay. And what are your responsibilities as the  
18 assistant legal attache in Turkey?

19 A I work closely with Turkish government organizations to  
20 exchange information and advance FBI investigations that have  
21 connection to Turkey.

22 Q How long have you had that post?

23 A I was assigned to Turkey in July of 2014.

24 Q And where were you before that?

25 A I worked for the FBI in the Baltimore field office for

SHERRY BRYANT, RMR, CRR

## SIDEBAR

1 ten years prior to that.

2 Q Ever been to Istanbul?

3 A Yes, I've been to Istanbul several times.

4 Q Also a city in Turkey?

5 A Correct. It's the largest city by population in Turkey.

6 Q How would you describe Istanbul?

7 A Istanbul is a world-class city. It's a large modern  
8 city. Population estimates range anywhere from 15 to 20  
9 million. It's got two large international airports. They're  
10 building a third currently. It's frequently -- within Turkey,  
11 Istanbul is compared to New York City often. It's the  
12 commercial and financial hub of the country.

13 Q Special Agent Phillips, are you familiar with an  
14 investigation into an individual named Tairod Pugh?

15 A Yes, I am.

16 Q And how did that investigation first come to your  
17 attention?

18 MR. CREIZMAN: Objection. Could we have a sidebar?

19 THE COURT: Okay.

20 (Continued on the next page.)

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## SIDEBAR

1 (Sidebar conference.)

2 MR. CREIZMAN: I would just like a proffer as to  
3 what this witness is going to say. I can't figure it out from  
4 the 3500 material. And, I mean, what is he going -- I mean,  
5 is he going to say that he heard that Mr. Pugh was acting  
6 suspiciously? You know, this is -- I can't cross-examine  
7 whoever that person is.

8 MR. NITZE: No. He's just going to say he received  
9 a photograph of him on January 10th from Turkish counterparts.  
10 We're going to seek to put that into evidence.

11 He's going to say that he received in response to  
12 an NLAT, in response to a request for neutral legal assistance  
13 those four documents, the four photographs that you have from  
14 Ataturk Airport. He's going to explain what those are. I was  
15 going to put in the translation that we discussed, just the  
16 entry time, for those photographs.

17 There's the other NLAT document, which is just the  
18 photocopy of a ticket stub, passport page. You've seen it.

19 MR. CREIZMAN: Yes.

20 MR. NITZE: I think that's it. It's basically to  
21 move in photographic evidence.

22 Oh, I may -- thank you. He was asked -- and this  
23 might be a cross point, but I'm going to ask him on direct.  
24 He was asked whether -- when that photograph was sent to him  
25 he was asked whether they had derogatory information about Mr.

PHILLIPS - DIRECT / NITZE

1 Pugh by the Turkish authorities. The answer was no, they  
2 didn't have any information to provide about Mr. Pugh.

3 MR. TAYLOR: What do you mean by derogatory?

4 MR. NITZE: Well, I'll ask him that too. It's a law  
5 enforcement term of art, but it means does he have an arrest  
6 background, is he on their radar. And hopefully, to you, the  
7 answer is no.

8 MR. TAYLOR: I would just say to the extent they're  
9 going to try to introduce any statements by Turkish  
10 authorities, the Turkish National Police, we'd object to that.

11 MR. NITZE: Other than the question that was asked  
12 do you have this information, I'm not planning to put in  
13 hearsay.

14 MR. CREIZMAN: I just wanted to understand what that  
15 was.

16 MR. NITZE: I understand. And I take it from our  
17 conversations there's no objection to those photographs?

18 MR. CREIZMAN: No.

19 MR. NITZE: So it should be straightforward.

20 MR. CREIZMAN: Thank you.

21 THE COURT: Nice to see you all again.

22 MR. BINI: Thank you, Judge.

23 (End of sidebar conference.)

24 (Continued on the next page.)

25

PHILLIPS - DIRECT / NITZE

1 (In open court.)

2 THE COURT: All right, you may continue.

3 MR. NITZE: Thank you, Your Honor.

4 BY MR. NITZE:

5 Q How did the investigation first come to your attention,  
6 Special Agent Phillips?

7 A It first came to my attention via an e-mail from a  
8 Turkish law enforcement officer who I work with closely.

9 Q And was there anything attached to that e-mail?

10 A Yes, there were two attachments.

11 Q And what were those attachments?

12 A The first attachment was a photograph of the biographic  
13 information page from Mr. Pugh's United States passport. The  
14 second attachment was a photograph of Mr. Pugh sitting in  
15 Istanbul Ataturk Airport.

16 Q And what was the date, if you recall, on which you  
17 received that e-mail?

18 A It was January 10th, 2015.

19 Q And were any questions asked of you when that e-mail was  
20 sent to you?

21 A Yes. It was asked if I had any derogatory information on  
22 Mr. Pugh.

23 Q Okay. And your contact was a member of Turkish law  
24 enforcement; is that correct?

25 A Yes, it is.

PHILLIPS - DIRECT / NITZE

1 Q And when you use the term "derogatory information," in  
2 law enforcement circles what does that mean?

3 A It's a common phrase in law enforcement circles. In this  
4 context, he was asking if I had -- if Mr. Pugh had any  
5 criminal record in the United States, if he had any active  
6 warrants in the United States, and if he was on the U.S.  
7 government terror watch list.

8 Q Okay. And did you have any such information about Mr.  
9 Pugh?

10 A No, I did not.

11 Q Okay.

12 MR. NITZE: Your Honor, if I could show for the  
13 witness only Government Exhibit 19.

14 THE COURT: Go ahead.

15 Q Special Agent Phillips, do you recognize this document?

16 A Yes, I do.

17 Q What is it?

18 A It's the photograph that was sent to me as an attachment  
19 for the e-mail on January 10th, 2015. It depicts Mr. Pugh  
20 sitting in the airport in Istanbul.

21 Q And is this a fair and accurate copy of the photograph  
22 you received on January 10th?

23 A Yes, it is.

24 MR. NITZE: Your Honor, the government moves  
25 Exhibit 19 into evidence.

PHILLIPS - DIRECT / NITZE

1                   THE COURT: Any objection?

2                   MR. CREIZMAN: No objection.

3                   THE COURT: All right. Government Exhibit 19 is  
4 received in evidence.

5                   (Government Exhibit 19 received in evidence.)

6                   MR. NITZE: If we can publish to the jury.

7                   THE COURT: All right.

8                   (Exhibit published to the jury.)

9                   Q     All right. What steps, if any, did you take after you  
10    received this e-mail, rather, the e-mail to which that  
11    photograph was attached?

12                  A     Yes. I forwarded the e-mail and attachments to my  
13    supervisor in Ankara, Turkey, as well as to the FBI agents who  
14    are posted in the U.S. Embassy in Cairo, Egypt.

15                  Q     And why did you send the e-mail to your counterparts in  
16    Egypt?

17                  A     Because it was my understanding on that day that Mr. Pugh  
18    had flown from Egypt to Turkey and that he most likely was  
19    going to be returned from Turkey to Egypt.

20                  MR. NITZE: Your Honor, may I approach the  
21    witness?

22                  THE COURT: Yes, you may.

23                  MR. NITZE: And if I could inquire for a moment from  
24    the witness box?

25                  THE COURT: Yes, you may.

PHILLIPS - DIRECT / NITZE

1 MR. NITZE: Thank you.

2 Q I'm missing one document. Got it.

3 I'm handing you a series of two-page exhibits.

4 They're marked Government Exhibits 18-A, B, C and D, and if I  
5 could ask you to take a look at each page of those exhibits.

6 A (Reviewing.) Okay, I reviewed the four exhibits.

7 Q Do you recognize those documents?

8 A Yes, I do.

9 Q And the first page of each of those four exhibits, what  
10 are those documents, the first four pages?

11 A The first four pages are still images that came from  
12 airport security camera footage inside of Istanbul Ataturk  
13 Airport. It depicts Mr. Pugh on January 10th, 2015.

14 Q Okay, and the second page of each of those exhibits?

15 A The second page adds an English translation to the  
16 Turkish language text box that's on each photograph.

17 Q Okay. And did you receive these photographs from the  
18 Turkish government?

19 A Yes, we did.

20 Q Okay. And were the photographs, the stills, provided in  
21 response to a request for information from the Turkish  
22 government?

23 A The request for information from the U.S. government to  
24 the Turkish government, correct.

25 Q Okay. And are these fair and accurate copies of the

SHERRY BRYANT, RMR, CRR

PHILLIPS - DIRECT / NITZE

1 photographs that you received in response to that request?

2 A Yes, they are.

3 Q Okay. And the translations that are behind them, those  
4 were provided to you in preparation for your testimony today;  
5 is that correct?

6 A Yes, it is.

7 Q I have one other document to show you, Government Exhibit  
8 38 for identification. Do you recognize that document?

9 A Yes, I do.

10 Q What is it?

11 A It's a document that was also provided to the Turkish  
12 government -- from the Turkish government to the United States  
13 government in response to our request for information.

14 It depicts the biographic information page from Mr.  
15 Pugh's U.S. passport, airline record stubs of some sort, and I  
16 don't speak Arabic but it appears to be an Arabic language  
17 receipt.

18 Q And is this a fair and accurate copy of the document that  
19 you received from the Turkish government?

20 A Yes, it is.

21 MR. NITZE: Your Honor, the government offers  
22 Exhibits 18-A, B, C and D, with the accompanying translation,  
23 and Government Exhibit 38 into evidence.

24 MR. CREIZMAN: No objection.

25 THE COURT: All right. Government Exhibits 18-A, B,

PHILLIPS - DIRECT / NITZE

1 C and D and Government Exhibit 38 are received in evidence.

2 You may publish them to the jury.

3 (Government Exhibits 18-A, B, C and D, with  
4 accompanying translation, and Government Exhibit 38 received  
5 in evidence.)

6 MR. NITZE: Thank you, Your Honor.

7 Q Starting with Government Exhibit 18-A, and there's a text  
8 box here on the right-hand side where my finger is. Do you  
9 know what language that's written in?

10 A That's Turkish.

11 Q Now, the second page of 18-A, if I can ask you to just  
12 read the translation here that begins where my finger is.

13 A Yes. It's time: 12 hours, 59 minutes, 38 seconds;  
14 movement: Once arrived from international arrival level, gate  
15 number 220.

16 Q Thank you. Government Exhibit 18-B, here again, is this  
17 in Turkish, this text box?

18 A Yes, it is.

19 Q And if you could read that translation again?

20 A Time: 13 hours, 0 minutes, 41 seconds; movement: Once  
21 arrived from international arrival level, gate number 220.

22 Q Thank you. 18-C, the same thing, could you read the  
23 translation box, please?

24 A Time: 13 hours, 4 minutes, 30 seconds.

25 Q Finally, 18-D, publishing 18-D, and I'll have you read

PHILLIPS - DIRECT / NITZE

1 the accompanying translation for that exhibit.

2 A Time: 17 hours, 16 minutes, 53 seconds; departing from  
3 gate number 221 on international departure level.

4 Q Finally, I'll just briefly publish Exhibit 38. And when  
5 you received Exhibit 38 from the Turkish government, were  
6 these original documents provided or was a photocopy like the  
7 one you're looking at right now provided?

8 A A photocopy was provided that looked exactly like this.  
9 It was one document.

10 Q Okay. And starting from the left and moving to the right  
11 through this document where my finger is, what is that a  
12 photocopy of?

13 A That's the biographic information page from Mr. Pugh's  
14 United States passport.

15 Q In the center top, what is this here?

16 A It's from EgyptAir. It may be a baggage claim stub. I'm  
17 not sure.

18 THE COURT: Can you turn it over so those of us who  
19 are not used to reading on the side.

20 MR. NITZE: Yes, Your Honor.

21 THE COURT: Okay. Next.

22 Q Next, and I'll flip it around, this document here with  
23 EgyptAir at the top.

24 A Yes. It's an airline ticket stub from EgyptAir.

25 Q All right. And if you could read the words on the top

SHERRY BRYANT, RMR, CRR

## PHILLIPS - DIRECT / NITZE

1 here where my finger is?

2 A It says: Name of passenger.

3 Q And these words here on either side of the slash mark?

4 A Pugh, Tairod.

5 (Continued on the next page.)

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PHILLIPS - DIRECT / NITZE

1 Q And, finally, this document on the far right, do you know  
2 what this is?

3 A It appears to be an Arabic language receipt, possibly,  
4 for purchase of a USB cable.

5 Q Why do you say possibly for the purchase of a USB cable?

6 A I see USB cable in English, and I can't read the Arabic.

7 MR. NITZE: A moment, your Honor?

8 THE COURT: Sure.

9 BY MR. NITZE:

10 Q Do you know what time zone Turkey is in?

11 A We're seven hours ahead of the east coast of the United  
12 States.

13 MR. NITZE: No further questions. Thank you very  
14 much.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. TAYLOR:

18 Q Hello, Mr. Phillips. Good afternoon.

19 A Good afternoon.

20 Q My name is Zachary Taylor. I'm an attorney representing  
21 the defendant, Mr. Pugh. You testified, going -- rewind --  
22 strike that.

23 Rewind to the beginning of your testimony; you said  
24 Istanbul is a large modern city; is that right?

25 A Yes.

Phillips - Cross - Taylor

1 Q And you said 15 to 22 million people live there?

2 A Those are the most common estimates, yes.

3 Q And it's growing very quickly, isn't it?

4 A Yes.

5 Q Something like 50 years ago, maybe there was only 1

6 million people; is that right?

7 A I don't know how to answer that.

8 Q But it is growing quickly?

9 A It is definitely growing quickly, yes.

10 Q And you said there are two international airports there?

11 A Currently that's true.

12 Q And one of them is Ataturk Airport?

13 A Yes.

14 Q And the other one is Sabiha Gokcen; is that right?

15 A Yes.

16 Q And Ataturk airport is on the European side of the city;

17 is that right?

18 A Yes.

19 Q Sabiha Gokcen is on the Asian side?

20 A Sabiha Gokcen is on the Asian side, correct?

21 Q And those airports are quite a distance apart, aren't

22 they?

23 A In terms of traffic wise, yes.

24 Q The traffic is very bad in Istanbul?

25 A Frequently, yes.

NICOLE CANALES, CSR, RPR

Phillips - Cross - Taylor

1 Q And the distance between those two airports is something  
2 like 70 kilometer or 40 miles?

3 A I don't know. That sounds approximately correct. I  
4 don't know the exact distance.

5 Q You said they're building a third airport in Istanbul?

6 A Yes, they are.

7 Q That's because the amount of air traffic coming into  
8 Istanbul can't be handled by the two airports that exist  
9 currently?

10 A They're going to replace Istanbul Incirlik Airport with a  
11 larger airport. In the end, there will still be two airports,  
12 but there will be a larger one than the current airport.

13 Q Ataturk Airport is a very business airport?

14 A Yes.

15 Q There aren't enough gates for all the planes there, are  
16 there?

17 A Frequently it fluxes. A bus can pick up passengers, if  
18 that's what you're asking, yes.

19 Q That's right. In other words, you can experience that  
20 you've arrived at Ataturk Airport and had to take a bus to the  
21 terminal?

22 A Yes.

23 Q That's a pretty common occurrence, isn't it, sir?

24 A Yes.

25 Q And that's because the plane can't come right up to the

1 terminal; is that right?

2 A That's my understanding, yes.

3 Q And the reason it can't come right up to the terminal is  
4 that there are currently not enough gates at the airport?

5 A I believe that's correct, yes.

6 Q There are quite a few expatriates living in Istanbul  
7 currently, aren't there?

8 A I'm sure there are.

9 Q The number is probably difficult to estimate, but would  
10 it be greater than 100,000?

11 A You're asking American expatriates or international  
12 expatriates.

13 Q Let's say international expatriates?

14 A I would say it is likely more than 100,000 international  
15 expatriates.

16 Q And not all those expatriates speak Turkish fluently, do  
17 they?

18 A No.

19 Q We'll move on to another subject. In your work, you deal  
20 with the Turkish National Police; is that correct?

21 A Yes.

22 Q And the Turkish National Police is responsible for  
23 security at Ataturk Airport?

24 A Yes.

25 Q And for screening visitors who are coming into the

Hickok - Direct - Nitze

1 country?

2 A Yes. Correct.

3 Q And the employees of Turkish National Police are Turks,  
4 aren't they?

5 A Yes.

6 Q And those employees speak Turkish as their first  
7 language, don't they?

8 A Yes.

9 Q They don't speak English as their first language; is that  
10 right?

11 A Not typically, correct.

12 MR. TAYLOR: Thank you. I have no further  
13 questions.

14 THE COURT: Anything else from the government?

15 MR. NITZE: No, your Honor.

16 THE COURT: Very well. The witness is excused. You  
17 may stand down, sir.

18 THE WITNESS: Thank you.

19 THE COURT: You're welcome.

20 The government may call its next witness.

21 MR. NITZE: The government calls Michael Hickok.

22 THE COURT: Please raise your right hand, sir. Do  
23 you solemnly swear that the testimony you shall give in this  
24 case on trial will be the truth, the whole truth and nothing  
25 but the truth, so help you God?

HICKOK/DIRECT/NITZE

1           THE WITNESS: I do.

2           THE COURT: Please be seated. Please state and  
3 spell your full name for the record.

4           THE WITNESS: Michael Robert Hickok, M-i-c-h-a-e-l,  
5 R-o-b-e-r-t, H-i-c-k-o-k.

6 MICHAEL ROBERT HICKOK,

7 called as a witness, having been first duly sworn, was  
8 examined, and testified as follows:

9           THE COURT: You may inquire.

10           MR. NITZE: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MR. NITZE:

13 Q       Good afternoon, Mr. Hickok.

14 A       Good afternoon.

15 Q       Where do you work?

16 A       I work for the FBI.

17 Q       And where?

18 A       In Ankara, Turkey.

19 Q       What is your position in Ankara, Turkey?

20 A       I'm the legal attach in Ankara.

21 Q       What are your responsibilities as the legal attach for  
22 the FBI?

23 A       I'm the senior FBI officer in Ankara, Turkey, as well as  
24 being the senior Department of Justice representative there.

25 Q       If you can say a bit more about your role and what you do

HICKOK/DIRECT/NITZE

1 day-to-day?

2 A On a daily basis, I work with the Turkish National Police  
3 to address issues affecting either the Turkish criminal system  
4 or the American criminal system and liaison with  
5 administration of justice.

6 Q How long have you had that position?

7 A I arrived there in June of 2015.

8 Q How long have you been with the bureau?

9 A Since July of 2002.

10 Q Have you ever had a posting in another part of Turkey?

11 A I have. I was in Istanbul as the assistant legal attach  
12 from October 2009 until January 2012.

13 Q And were your responsibilities as the assistant legal  
14 attach similar to those that you have now?

15 A Confined to the city of Istanbul, but, yes, similar  
16 duties.

17 Q So you lived in Istanbul during that time period?

18 A I did, yes.

19 Q How would you describe Istanbul?

20 A It's a fairly modern European city of about 15 million  
21 people officially. Closer to 17 or 20 million in reality.

22 Q What is the primary language spoken in Istanbul, Turkey?

23 A Turkish.

24 Q Outside of the tourism and hospitality context, how  
25 common is English as a second alternative language in

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1      Istanbul?

2      A      Not particularly common outside of some of the  
3              international business context.

4      Q      And you work now in the U.S. Embassy; is that right?

5      A      I do.

6      Q      Were you in the embassy when you were posted in Istanbul  
7              as well?

8      A      No, I worked at the consulate in Istanbul. We have a  
9              large consulate presence there.

10     Q      As part of your work as the legal attach and previously  
11              as the assistant legal attach, you've become familiar with  
12              visa and other work requirements for U.S. citizens seeking to  
13              work in Turkey?

14     A      Yes, that's correct.

15     Q      How is it that you've become familiar with those  
16              requirements? What aspect of your work requires that  
17              knowledge?

18     A      Part of my work there was dealing with the State  
19              Department's American Citizen Services, where Americans in a  
20              country will either find themselves victims of criminal  
21              activity or suspected of having participated in criminal  
22              activity, so determining their status legally in Turkey was an  
23              important part of that.

24     Q      And, generally, what are the requirements for a U.S.  
25              citizen to seek employment in Turkey?

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1 A You have to have a work visa, which requires a company  
2 sponsoring your work in Turkey, normally prior to entry.

3 Q As part of your responsibilities representing the FBI in  
4 Turkey, do you interact with representatives of other U.S.  
5 federal agencies overseas?

6 A Yes. As part of the country team member, I interact  
7 regularly with the Department of Homeland Security, Department  
8 of Defense, State Department.

9 Q How about Transportation Safety Administration?

10 A Their work is covered under the Department of Homeland  
11 Security attach, but the regional representative in Frankfurt  
12 meets with us at least quarterly.

13 Q And when you were posted in Ankara, to what extent did  
14 your work require that you visit the airport? Excuse me. In  
15 Istanbul, I meant to say?

16 A I would go up to Istanbul at least every month and a  
17 half, to check on our office in Istanbul, and to meet with  
18 senior Turkish police representatives there.

19 Q Do you know how many, if any, U.S. air carriers have a  
20 presence in Istanbul, Turkey?

21 A There is one U.S. air carrier that flies into Turkey on a  
22 seasonal basis. It's the Delta flight from JFK to Istanbul.  
23 Usually it starts late June and goes to the end of the tourist  
24 season, approximately four to five months.

25 Q Do you know whether Delta or any other U.S. carrier

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1 maintains mechanical facilities in Turkish?

2 A They do not. They have a contract with Turkish Airlines,  
3 if any service is necessary on that flight.

4 Q And how about cargo carriers or other American flag  
5 carriers, that is, companies with fleets that are companies  
6 based in U.S.?

7 A DHL and FedEx fly into Turkey with some regularity, but,  
8 again, they've maintained no maintenance facility, or,  
9 actually, they don't overnight their planes there.

10 Q Are you familiar with an investigation into an individual  
11 named Tairod Pugh?

12 A I am.

13 Q And did you recently take any investigative steps in  
14 connection with that investigation?

15 A I did. I was asked by the New York office here to verify  
16 the location of a seating area in international airport.

17 MR. NITZE: If I can show the witness and the jury  
18 Government Exhibit 19 in evidence?

19 THE COURT: Yes, you may.

20 MR. NITZE: Thank you.

21 Q Special Agent Hickok, have you seen this photograph  
22 before?

23 A I have seen this photograph, yes.

24 Q How is this photograph relevant to the investigative step  
25 you just described?

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1 A This photograph was originally provided by the Turkish  
2 police to the FBI and given to the New York field office to  
3 pursue their investigation into Mr. Pugh. They asked if I  
4 could verify the location of this photograph.

5 Q And were you able to verify the location of that  
6 photograph?

7 A I was.

8 Q How did you do that?

9 A When I tripped (sic) to the international airport there  
10 in Istanbul, I met with my Turkish police colleagues to verify  
11 if they knew where that location was. They took me to that  
12 location.

13 Q Where was that location?

14 A The location is at the area where you come off of the --  
15 sort of gangways into the international airport. You file  
16 down a long hallway, and before you enter into the baggage  
17 claim area, there is a visa and immigration check line that  
18 funnels you down in that area. The seating area that was in  
19 the picture is immediately to the right of that immigration  
20 line.

21 Q Did you see the seating area that's depicted in the  
22 photograph I just showed you?

23 A I did. Yes.

24 Q Did you document that in any fashion?

25 A I did. I took a picture of that area.

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1                   MR. NITZE: Your Honor, if I could show to the  
2 witness only Government Exhibit 20 marked for identification?

3                   THE COURT: Yes, you may.

4 Q                Do you recognize this document?

5 A                Yes, I do. That's the photograph I took on November 23rd  
6 of 2015.

7 Q                Is it a fair and accurate copy of the photograph that you  
8 took?

9 A                It is. Yes.

10                  MR. NITZE: The government offers Exhibit 20 into  
11 evidence.

12                  MR. CREIZMAN: No objection.

13                  THE COURT: All right. Government Exhibit 20 is  
14 received in evidence and published to the jury.

15                  (Government's Exhibit 20 was received in evidence.)

16 Q                So the area shown here in photograph -- excuse me.

17 Government Exhibit 19 is the same as the area you visited,  
18 that you just described here in Government Exhibit 20; is that  
19 right?

20 A                It is. That's correct.

21                  MR. NITZE: No further questions, your Honor.

22                  THE COURT: All right. Cross-examination.

23                  MR. TAYLOR: Yes.

24                  CROSS-EXAMINATION

25                  BY MR. TAYLOR:

1 Q Good afternoon, Mr. Hickok.

2 A Good afternoon.

3 Q My name is Zachary Taylor. I'm an attorney representing  
4 the defendant, Tairod Pugh. I'm just going to ask you a few  
5 questions.

6 Now, you testified that you have -- that you lived  
7 in Istanbul between October 2009 and January of 2012; is that  
8 right?

9 A That's correct.

10 Q And during that time, did you notice that there was a  
11 large influx of expatriates from Western Europe and the United  
12 States?

13 A No more than normal, no.

14 Q So by normal you mean that there are more people coming  
15 in?

16 A No, there were (sic) a normal tourist flow coming into  
17 Turkey, but there was no significant amount of expatriates  
18 moving into Turkey, at that point.

19 Q I see. But after that point, was there significant  
20 influx of expatriates coming into Turkey?

21 A I couldn't speak to that; I didn't live there at the  
22 time.

23 Q I see. While you were living in Istanbul, did you have  
24 an opportunity to -- did you have acquaintances who were  
25 non-law enforcement but American?

1 A Yes.

2 Q Were all of them there for business?

3 A Many of them were there for business, yes.

4 Q Did you have an opportunity to go to neighborhoods such

5 as Cihangir?

6 A I'm familiar with the neighborhood, yes.

7 Q C-i-h-a-n-g-i-r, you're familiar with that neighborhood?

8 A I am.

9 Q And you know that there are a lot of expatriates living

10 in that neighborhood?

11 A Sure.

12 Q And many of those expatriates are America, aren't they?

13 A As well as from other countries, yes.

14 Q And you hear a lot of English being spoken in the

15 streets, don't you?

16 A That's a very large tourist area, yes.

17 Q That's correct. There are a lot of tourists that go

18 there, but there's also a lot of Americans living there as

19 well; isn't that correct?

20 A Yes.

21 Q And it is relatively easy for an American to obtain a

22 residency permit in Turkey, isn't it?

23 A No, it's not relatively easy. It's easy to live there on

24 a tourist visa for 90-day periods, but residency requires

25 certain amount of paperwork and processing.

1 Q If you fill out the paperwork, you can get residency  
2 permit; isn't that right?

3 A That's part of the process, yes.

4 Q So I understand that there's a process, but it's not as  
5 if the Turkish government is turning away Americans, are they?

6 A Currently, yes. Absolutely, they are.

7 Q Are they turning away Americans who satisfy residency  
8 requirements?

9 A Yes. Absolutely.

10 Q And so is the number of expatriates declining right now  
11 in Turkey, sir?

12 A Again, I couldn't speak to the total numbers; I'm not  
13 familiar with the total numbers.

14 Q Now, you understand that there's something -- would you  
15 estimate that there are at least a hundred thousand foreign  
16 expatriates living in Turkey?

17 A I would suggest the number is probably greater than that.

18 Q And would you say that there are tens of thousands of  
19 Americans living in Istanbul right now?

20 A Yeah, the last time I saw an actual number, around 2010,  
21 there were approximately maybe 32,000 Americans believed to be  
22 residents in Turkey.

23 Q Now, do all of those Americas have work permits?

24 A Not if they're not working, no.

25 Q But there are a number of Americans who are working but

1 do not have work permits; isn't that correct?

2 A There are many that are working illegally, yes.

3 Q So in other words, it's possible to work in Turkey  
4 without a work permit?

5 A It is, normally, in a situation like an English language  
6 institute or private school, yes.

7 Q So you're saying that you could teach English effectively  
8 off the books?

9 A Yes.

10 Q And there are probably other jobs that an American can  
11 have in Istanbul off the books?

12 A It would depend on the kind of job, yes.

13 Q Such as being a tour guide?

14 A Tour guides are a pretty regulated industry, with a union  
15 that prevents people from doing it without a work permit.

16 Q There's a union regulating it, but there are unofficial  
17 tour guides, aren't there?

18 A As I said, at most of the sites, people who try to do  
19 that are confronted by the unionized tour guides.

20 Q All right. We'll move on. Ataturk Airport is a very  
21 busy airport, isn't it?

22 A It is. I believe it's the third busiest in Europe right  
23 now.

24 Q And you testified that there is one U.S. carrier that  
25 goes in and out of Ataturk on a seasonal basis?

1 A That's correct.

2 Q And that's Delta Airlines?

3 A That's correct.

4 Q But there are at least a dozen other airlines that go in

5 and out of Ataturk Airport on a regular basis?

6 A Absolutely.

7 Q Is the number something like two dozen?

8 A I can't speak to the absolute number.

9 Q And, then, there's another airport in Istanbul, Sabiha

10 Gokcen; isn't that correct?

11 A Yes.

12 Q Sabiha Gokcen is also a large airport, isn't it?

13 A It is.

14 Q With multiple carriers doing daily flights in and out of

15 the airport?

16 A Yes.

17 Q Now, you testified earlier that Turkish is the primary

18 language in Istanbul; is that right?

19 A It is.

20 Q And you would say that English, to the extent that

21 English is spoken in Istanbul -- start again. To the extent

22 that English is spoken in Turkey, there's more English

23 speakers in Istanbul than there are in the rest of the

24 country; is that right?

25 A I wouldn't know the absolute number of that.

1 Q Well, putting aside absolute numbers, have you had an  
2 opportunity to travel around the country while you were living  
3 in Turkey?

4 A Yes, quite extensively.

5 Q And have you traveled, for instance, to a city called  
6 Sanliurfa?

7 A I have.

8 Q And you noted that there's not very many English speakers  
9 in Sanliurfa; isn't that right?

10 A I wouldn't be able to speak to how many English speakers  
11 are in Sanliurfa.

12 Q Do you remember being interviewed in this case by Special  
13 Agent Ghilan Stepho and also AUSA Samuel Nitze?

14 A Yes.

15 Q And that interview occurred on February 28th of this  
16 year; is that right?

17 A That's correct.

18 MR. TAYLOR: May I approach the witness, your Honor?

19 THE COURT: Yes, you may. That was yesterday?

20 MR. TAYLOR: So it was.

21 THE COURT: All right. Go ahead. Could you just  
22 step to the side so the jury can see the witness. That's  
23 all right. Right there is good.

24 Q Mr. Hickok, I'll just direct your attention to the final  
25 paragraph.

1                   THE COURT: Is there a number on that, whatever it  
2 is you gave him? Is it over there? Don't go back, but I'll  
3 need it for the record when you're done.

4                   MR. TAYLOR: We will mark it Exhibit B.

5                   THE COURT: Exhibit B. Defense Exhibit B. Okay.

6 Q                Mr. Hickok, you've had a chance to look at the final  
7 paragraph of this report?

8 A                Yes.

9 Q                Do you remember having this conversation yesterday?

10 A               I believe the conversation took place on Saturday, sir.

11 Q               All right. But it was a very recent conversation?

12 A               It was.

13 Q               And so the contents of that conversation are fresh in  
14 your mind?

15 A               Uh-huh.

16 Q               And did you --

17                   THE COURT: You have to say yes.

18                   THE WITNESS: Yes. I'm sorry. Yes.

19 Q                And did you tell Special Agent Stepho --

20                   THE COURT: Wait. I'm sorry. Are you asking if the  
21 witness -- this refreshes the witness' recollection about  
22 something?

23                   MR. TAYLOR: Yes, your Honor.

24                   THE COURT: Well, then put it in the form.

25 Q                Having seen this, does it refresh your recollection as to

1 the conversation that you had with Special Agent Stepho and  
2 AUSA Sam Nitze?

3 A Yes.

4 MR. TAYLOR: Your Honor, the defense moves Exhibit B  
5 into evidence.

6 MR. NITZE: Objection.

7 THE COURT: Sustained.

8 But go ahead and ask him the question about  
9 whether -- the original question, whether it refreshes his  
10 recollection.

11 Q So you remember that I asked you if in places outside of  
12 Istanbul, whether there were many people who spoke English,  
13 and you said that you weren't really sure about that. Do you  
14 remember saying that?

15 A I believe the question was whether the number of people  
16 outside of Istanbul that spoke English was the same as in  
17 Istanbul.

18 Q Okay. Maybe we don't need this. Maybe I can just ask  
19 you this: Would you say that outside of Istanbul the number  
20 of English speakers is limited?

21 A Depending on the city, yes.

22 Q Well, I'm actually asking about Istanbul versus not  
23 Istanbul. Would you say that not Istanbul, the number of  
24 English speakers is limited, sir?

25 A Again, it would depend on what city you're comparing that

1 with. Specifically, if you're talking about the totality of  
2 all the rest of Turkey, in comparison to Istanbul, yes,  
3 English speaking is limited outside of Istanbul.

4 Q So you found that in Sanliurfa, English speaking is  
5 limited?

6 A Yes. In comparison to Istanbul, yes.

7 Q And in Gaziantep, English speaking is limited?

8 A In comparison to Istanbul, yes.

9 Q In Hatay, English speaking is limited?

10 A Yes, in comparison to Istanbul, it is.

11 Q These are all cities that are in southeastern Turkey; is  
12 that correct?

13 A That's correct.

14 Q And these are all cities that are relatively, more or  
15 less, near the Syrian boarder; is that right?

16 A I'm sorry. Hatay is in the southwest of Turkey not the  
17 southeast of Turkey, but they're all along the Syrian boarder.

18 Q Now, are you familiar with an air force base that's  
19 called Incirlik?

20 A I am familiar with it, yes.

21 Q And that's in southern Turkey near the city of Adon?

22 A It is, yes.

23 Q And there is a United States air base station there,  
24 isn't there?

25 A There is an air refuelling wing station at the NATO base

## Hickok - Redirect - Nitze

1 there.

2 Q It is a NATO base in Incirlik Air Base?

3 A Yes.

4 Q And there are thousands of U.S. airmen serving in  
5 Incirlik Air Base; isn't that correct?

6 A Yes, that's correct.

7 Q And, in fact, over the course of 2015, the number of  
8 airmen serving at Incirlik Air Force Base has increased  
9 dramatically, hasn't it?

10 A I have no idea of what the absolute number of servicemen  
11 there are.

12 Q I'm talking about relative numbers. Has the relative  
13 number increased over the course of 2015?

14 A Again, I don't have the knowledge to speak to that.

15 Q Now, the defendant in this case, Mr. Pugh, was  
16 interviewed by Turkish National Police on January 10, 2015; is  
17 that right?

18 A I would have to refresh my memory with the documents; I  
19 was not present for that interview.

20 Q That's fine. You've never met Mr. Pugh, have you?

21 A I have not, no.

22 Q And he's never spoken to you about his intentions or his  
23 plans?

24 A Not at all.

25 MR. TAYLOR: Thank you. No further questions.

## HICKOK/REDIRECT/NITZE

1                   THE COURT: Redirect.

2                   MR. NITZE: Yes, just briefly.

3                   REDIRECT EXAMINATION

4                   BY MR. NITZE:

5                   Q     Special Agent Hickok, just to clarify the point that was  
6     made about English language speaking outside of Istanbul, am I  
7     right that relative to Istanbul, some of the areas just now  
8     mentioned by Mr. Taylor, in some of those areas English is  
9     less common than in Istanbul; is that right?

10                  A     Yes. Absolutely.

11                  Q     But is it your testimony that there are no English  
12    speakers in those towns?

13                  A     No, not at all.

14                  Q     In your experience, are airports and mechanical  
15    facilities associated with airports in Turkey regulated work  
16    environments?

17                  A     They are, very much so.

18                  Q     Would somebody be able to work in that sort of  
19    environment without a work visa or work authorization?

20                  A     No.

21                  Q     You testified previously about a NATO base. There's a  
22    NATO base; is that right?

23                  A     Yes, Incirlik Air Force Base is operated as a NATO base  
24    by the U.S. Air Force.

25                  Q     Based on your understanding of both work requirements and

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1 U.S. operations in Turkey, would you be able to work as a U.S.  
2 citizen without authorization at a NATO air base in Turkey?

3 A No, you would not.

4 MR. NITZE: No further questions.

5 THE COURT: Mr. Taylor, anything else?

6 MR. TAYLOR: No, your Honor.

7 THE COURT: All right. Very well. The witness is  
8 excused. You may stand down, sir.

9 Members of the jury, we're going to suspend, at this  
10 point, and resume tomorrow morning at 9:30. Let me remind you  
11 again that it is extremely important that you follow my  
12 instruction that you not discuss this case with anyone, not  
13 your family, friends, or business associates, and none of the  
14 jurors.

15 In addition, you must not read, listen to, watch, or  
16 access any accounts of this case on any form of media,  
17 newspapers, TV, radio, or the Internet, nor research or seek  
18 outside information about any aspect of this case. Do not  
19 communicate with anyone about the case on your phone, whether  
20 through e-mail, text messages, BlackBerry messaging, iPhone  
21 messaging, through any blog or website, or by way of any  
22 social media websites, including Facebook, Twitter, LinkedIn,  
23 YouTube, or any similar websites.

24 I would also add that to the extent that you're  
25 interested in politics, that you avoid listening to any of the

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1 debates over terrorism that is going on in the national  
2 election here in the United States, but only for the period  
3 that you're a juror in this case. You must not consider  
4 anything you may have read or heard about the case outside of  
5 this courtroom, whether you read it before or during  
6 voir dire. Do not attempt any independent research or  
7 investigation about the case, and do not visit any locations  
8 identified in the questionnaire or discussed during the course  
9 of the voir dire.

10 Now, those of you who are taking notes, please leave  
11 your notes in the jury deliberation room, and you'll pick them  
12 up tomorrow morning when you arrive. We'll attempt to get  
13 started promptly at 9:30, and we may go until 5:30 tomorrow,  
14 depending on how the witness is -- the timing of the witnesses  
15 plays out. And the purpose of having a long trial day is to  
16 shrink the number of days of the trial, so I just point that  
17 out as well.

18 All rise for the jury.

19 (Jury exits.)

20 THE COURT: Mr. Taylor, did you show this to the  
21 witness? All right. Everyone may be seated. Okay. Who are  
22 the witnesses for the government tomorrow, beginning with  
23 the -- is it beginning with the agent? Mr. Nitze?

24 MR. NITZE: Yes, Judge. We're likely to start with  
25 Simon Maher, then move on to Jackson, Simerly. So there would

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1 be three law enforcement witnesses, and then the government's  
2 expert Aaron Zelin, who is likely to be, I think, a lengthy  
3 witness, will be called.

4 THE COURT: What about the agent who is undercover?  
5 Will this be tomorrow or the next day?

6 MR. NITZE: I think it's possible that witness could  
7 go tomorrow afternoon, but the way the case is shaking out  
8 now, it's possible it will be pushed to Wednesday morning, but  
9 I hope to put that witness on tomorrow afternoon.

10 THE COURT: The reason is we have to make certain  
11 arrangements that I think we're prepared to make, are we not?  
12 All the technical issues with the other courtroom are in  
13 place?

14 MR. NITZE: Yes, that is my understanding. I can  
15 confirm that.

16 THE COURT: All right. Well, when we get to the  
17 middle of the day, you may have a better idea of whether that  
18 witness will be tomorrow afternoon or Wednesday morning, and,  
19 frankly, I would prepare to take that witness' testimony in  
20 one block rather than dividing it between Tuesday afternoon  
21 and Wednesday morning, so we should discuss that as well, and  
22 whether there's some other -- if the testimony would begin at  
23 4:00 o'clock on Tuesday, whether there's someone else you can  
24 put in, a shorter witness, for late Tuesday, so we can begin  
25 with the testimony of the undercover agent on Wednesday

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1 morning and take it in one block, instead of having to do it  
2 twice, basically.

3 MR. NITZE: Yes, that makes sense.

4 THE COURT: Is there anything further from the  
5 government for this afternoon?

6 MR. NITZE: Not from the government, your Honor.

7 THE COURT: Anything from you, Mr. Creizman?

8 MR. CREIZMAN: No, your Honor.

9 THE COURT: You've put in something about the  
10 evidence issue today; right?

11 MR. NITZE: We've put in a letter, yes, but it  
12 doesn't address the issue that --

13 THE COURT: No, no, I'm not talking about the letter  
14 which came up at lunchtime. I'm talking about the -- will you  
15 have something on that evidentiary issue?

16 MR. CREIZMAN: Yes.

17 THE COURT: That you promised me something for  
18 early today?

19 MR. CREIZMAN: For as soon as possible today.

20 THE COURT: What?

21 MR. CREIZMAN: You mean on the --

22 THE COURT: Not on the issue about the  
23 cross-examination.

24 MR. CREIZMAN: Okay.

25 THE COURT: The other issue that -- the evidentiary

## PROCEEDINGS

1 question the two parties can't work out.

2 MR. CREIZMAN: Okay.

3 THE COURT: When do you think you'll have that?

4 When do I need to rule on it, is my question?

5 MR. CREIZMAN: I'm confused about what maybe the  
6 question is.

7 MR. NITZE: I believe there's an outstanding issue  
8 that relates to the cross-examination point, which has to do  
9 with out-of-court statements by the defendant.

10 THE COURT: That's what you put in the papers? I  
11 haven't read them.

12 MR. NITZE: No, encompassed within that issue is  
13 pages from the notebook that I think you would like to  
14 introduce. Anyway, there's an evidentiary issue that  
15 your Honor still needs to hear from us on, and you'll hear  
16 from us today.

17 THE COURT: What did you put in today in writing?

18 MR. NITZE: Today we've put in a letter seeking  
19 to -- a ruling on cross-examination on a government witness  
20 and preclude efforts to draw out of that witness false  
21 exculpatory statements by the defendant, essentially preclude  
22 the defense from putting in statements from the defendant  
23 through that witness. A similar issue has to do with court  
24 statements by the defendant, but doesn't capture all the  
25 material Mr. Creizman's talking about.

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1                   THE COURT: Do you understand?

2                   MR. CREIZMAN: Yes, I do.

3                   THE COURT: You're going to put something in on  
4 that?

5                   MR. CREIZMAN: I will put something in on that.

6                   THE COURT: As soon as possible.

7                   MR. CREIZMAN: Absolutely.

8                   THE COURT: It's 5:00 o'clock. So you have until --  
9 you have 16 hours.

10                  (Continued on the next page.)

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## PROCEEDINGS

1 MR. NITZE: Your Honor, if I may?

2 THE COURT: Yes?

3 MR. NITZE: The other issue that was raised in the  
4 letter that was filed midday today. As you recall, the  
5 government filed a motion and the parties litigated the  
6 question of the video evidence, and the government's part of  
7 this motion requested that because we had cut out so much of  
8 the videos in order to spare the jury some of the more graphic  
9 portions --

10 THE COURT: And the Court.

11 MR. NITZE: And the Court -- that we be permitted to  
12 elicit through agents' testimony a summary of the full content  
13 of the video, so that the jurors understand what those videos  
14 contain, although they won't -- in court, won't be able to  
15 view them.

16 We wanted to clarify our understanding or have  
17 confirmation of that in keeping with Your Honor's order, that  
18 is, that we may elicit testimony on the subjects through the  
19 agents.

20 MR. CREIZMAN: I'm going to have to write out  
21 that -- in response to that --

22 THE COURT: Right.

23 MR. CREIZMAN: -- because I object.

24 THE COURT: You object? You want the jury to see  
25 the --

## PROCEEDINGS

1 MR. CREIZMAN: I don't want --

2 THE COURT: -- Unredacted videos on the defendant's  
3 computer?

4 MR. CREIZMAN: No, I --

5 THE COURT: I don't want to see them.

6 MR. CREIZMAN: Given the choice, I would certainly  
7 have the agent describe it. Yes. If that's what Your Honor's  
8 order is. Yes.

9 THE COURT: Well, I'm not ordering -- if you have  
10 reached an understanding about it that will spare the jury  
11 viewing some of the more graphic elements of those videos,  
12 then let me know.

13 If that includes permitting the agents to describe  
14 briefly what's on the unedited portions of the videos, that's  
15 one thing. If you were -- if you object to that kind of  
16 summary, then we have to re-examine whether the unredacted  
17 videos in part or in whole should be shown to the jury. So  
18 try to work it out.

19 MR. CREIZMAN: I understand. I understand. Maybe I  
20 misunderstood initially what the --

21 THE COURT: Well, it's not my discussion.

22 MR. CREIZMAN: Well, maybe I misunderstood him.

23 THE COURT: You misunderstood him. You never  
24 misunderstand me.

25 MR. CREIZMAN: I've never misunderstood you.

## PROCEEDINGS

1                   THE COURT: Right.

2                   MR. CREIZMAN: And I don't know elicit false  
3                   exculpatory testimony in general. That's another thing that  
4                   will moot his point.

5                   THE COURT: Excellent. Okay.

6                   MR. CREIZMAN: Thank you.

7                   THE COURT: Anything else that now that we have  
8                   completely confused the issue?

9                   MR. NITZE: No, Your Honor.

10                  THE COURT: Try to work it out. Okay?

11                  MR. NITZE: Yes, Judge.

12                  THE COURT: Thank you.

13                  MS. DEMAS: Thank you.

14                  THE COURT: All right. See you at nine. Come at  
15                  nine. We still have to deal with an issue with -- that I  
16                  raised earlier at sidebar.

17                  MR. BINI: Yes, Your Honor.

18                  THE COURT: Okay?

19                  MR. CREIZMAN: Yes.

20                  THE COURT: Thank you.

21                  (Trial adjourned to March 1st, 2016, at 9 a. m.)

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